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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report of the Secretary-General on the situation of human rights in Myanmar, submitted pursuant to General Assembly resolution 55/112

1. The present report is submitted pursuant to paragraph 23 of General Assembly resolution 55/112 adopted on 4 December 2000, entitled "Situation of human rights in Myanmar", in which the Assembly requested me to continue my discussions with the Government of Myanmar in order to assist in the implementation of that resolution and to submit additional reports to the General Assembly during its fifty-fifth session on the progress of these discussions as well as to report to the Assembly during its fifty-sixth session and to the Commission on Human Rights at its fifty-seventh session.

2. As indicated in previous reports, I view the role entrusted to me by the General Assembly to be one of good offices, as distinct from the fact-finding mandate assigned by the Commission on Human Rights to the Special Rapporteur on the situation of human rights in Myanmar.

3. The Commission would be aware from my report to the General Assembly (A/55/509) that Mr. Razali Ismail, the former Permanent Representative of Malaysia to the United Nations, was appointed as my Special Envoy for Myanmar in April 2000, replacing Mr. Alvaro de Soto, the former Assistant Secretary-General for Political Affairs. Mr. Razali visited Myanmar from 29 June to 3 July and again from 9 to 12 October 2000. My Special Envoy undertook his third mission to Myanmar from 5 to 9 January 2001. During his first visit, Mr. Razali held consultations with Lieutenant-General Khin Nyunt, Secretary-1 of the State Peace and

Development Council (SPDC), U Win Aung, Minister for Foreign Affairs, and Brigadier-General David Abel, Minister in the Office of the Chairman of the SPDC. He also held consultations with leaders of two political parties, namely, the National League for Democracy (NLD), including its General-Secretary Daw Aung San Suu Kyi, and the Shan Nationalities League for Democracy. During his second visit, Mr. Razali held consultations with Senior General Than Shwe, Prime Minister and Chairman of the SPDC, Lieutenant-General Khin Nyunt, Secretary-1 of the SPDC, U Win Aung, Minister for Foreign Affairs, Major General Ket Sein, Minister of Health, and Colonel Tin Hlaing, Minister of Home Affairs. He held two rounds of discussions with Daw Aung San Suu Kyi at her residence and also had a meeting with a leader of the Pao ethnic group during his trip to Shan State. Mr. Razali held consultations again with Lieutenant-General Khin Nyunt and Foreign Minister Win Aung and had separate meetings with Daw Aung San Suu Kyi during his third mission.

I. GOOD OFFICES EFFORTS

4. My Special Envoy and I have raised, separately, with the Myanmar authorities the concerns of the General Assembly and the Commission on Human Rights, as reflected in their resolutions adopted over the years, such as the restoration of democracy and human rights in Myanmar, a dialogue involving the Government, political parties – particularly the NLD – and ethnic groups, freedom for political parties to conduct normal political activities, the release of political prisoners, the visit of the Special Rapporteur of the Commission on Human Rights, continued access to prisoners by the International Committee of the Red Cross (ICRC) and, last but not least, forced labour practices.

5. My Special Envoy and I particularly underscored the need for initiating a political dialogue between the Government and opposition political leaders that could lead to national reconciliation in Myanmar. During his second mission in October, my Special Envoy therefore focused his efforts on finding a way to initiate the process of a dialogue between the Government and opposition leaders, including Daw Aung San Suu Kyi. The Special Envoy called on Senior General Than Shwe, Lieutenant-General Khin Nyunt and other government leaders to consider taking the initiative in opening a dialogue with opposition leaders. At the same time, he also urged Daw Aung San Suu Kyi to engage in a dialogue with the authorities and to respond in good faith if they took positive steps towards national reconciliation. In my report to the fifty-fifth session of the General Assembly, I reiterated the readiness of the United Nations to assist the process of national reconciliation in Myanmar, in particular with the assistance of countries in the region.

6. I am pleased to note that during his third mission to Myanmar in January, the Special Envoy was able to confirm that the authorities and Daw Aung San Suu Kyi had started their secret discussions in October 2000, shortly after the conclusion of the Special Envoy's second mission to Yangon, and that the two sides indicated their satisfaction with the results of the dialogue achieved thus far in the area of confidence-building.

7. I consider as positive steps the release of NLD Vice-Chairman U Tin Oo and 85 other members of the party's youth wing, shortly after my Special Envoy's third mission in January, and that Professor Paulo Sérgio Pinheiro, the newly appointed Special Rapporteur on the

situation of human rights in Myanmar, has been authorized to visit Myanmar in early April. This event will hopefully contribute significantly to the deliberations in the Commission on Human Rights on the question of the situation of human rights in Myanmar.

8. While it does not fall directly under my good offices mandate, my Special Envoy and I have called, and will continue to call, upon the Myanmar authorities to cooperate with the Director-General of the International Labour Office in Geneva to help resolve the issue of forced labour at an early date.

II. OBSERVATIONS

9. I welcome the latest developments in Myanmar, in particular the on-going dialogue between the authorities and Daw Aung San Suu Kyi, and sincerely hope that the dialogue will soon lead to a more transparent process of discussions involving the Government, political parties and ethnic groups, as called for by the resolutions of the General Assembly, a process that, in my view, is indispensable for achieving national reconciliation in Myanmar. To that end, I reiterate my call on the Myanmar authorities and Daw Aung San Suu Kyi to seize the momentum and work towards the goal of national reconciliation, while appealing to the international community to continue to support the ongoing process of dialogue. I will continue to do my utmost to assist the process, together with the international community and, in particular, countries in the region.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Cooperation with representatives of United Nations human rights bodies

Report of the Secretary-General submitted in accordance with Commission on Human Rights resolution 2000/22

GE.01-10163 (E)

Introduction

1. In its resolution 2000/22, the Commission on Human Rights reiterated its concern at the continued reports of intimidation and reprisals against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies. The Commission also expressed concern at reports about incidents where private individuals had been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms. The Commission invited the Secretary-General to submit to it at its fifty-seventh session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against those referred to in the resolution. The present report is submitted in accordance with that invitation. It contains a summary of information gathered pursuant to resolution 2000/22, describing situations in which persons have reportedly been intimidated or suffered reprisals for having cooperated with United Nations human rights bodies, availed themselves of international procedures, provided legal assistance for this purpose, and/or for being relatives of victims of human rights violations.

2. The reported acts of reprisal ranged from harassment, threats and arbitrary arrests to ill-treatment or torture in detention. The alleged victims of these abuses were private individuals or members of non-governmental organizations which were or had been sources of information about human rights violations for United Nations human rights bodies. There are also disturbing allegations of cases where persons who personally met with representatives of United Nations human rights bodies subsequently suffered reprisals for having done so.

3. In some cases where the victims, whether individuals or organizations, had been in contact with one of the bodies or mechanisms of the Commission on Human Rights, action was taken for their protection by the pertinent body or the representative of the relevant mandate of the Commission. In most of the cases urgent communications were addressed to the Government concerned. The prompt intervention procedure is described in reports of the thematic mechanisms of the Commission. It should be noted that some of the information included in this report is also reflected in the latest reports presented by each mechanism to the General Assembly or the Commission on Human Rights.

I. INFORMATION RECEIVED FROM THE SPECIAL RAPPORTEUR ON THE QUESTION OF TORTURE

4. On 28 August 2000, the Special Rapporteur sent an urgent appeal to the Government of Brazil regarding alleged reprisals in connection with his visit to the detention facility for minors Franco da Rocha, which is under the jurisdiction of the *Fundação Estadual para o Bem Estar do Menor* (FEBEM). In his letter the Special Rapporteur drew the Government's attention to key provisions of resolution 2000/22. According to information provided by the Public Prosecutors for Children and Adolescents in the City of São Paulo, at least three minors the Special Rapporteur talked to during his visit had been subjected to intimidation and beatings by FEBEM guards. The minors were allegedly told that the beatings were in retaliation for the Special Rapporteur's visit to the institution and the interviews and information the minors had provided. It was further reported that since the visit, a large number of minors had been kept locked in their cells 24 hours a day while prior to the visit they had usually been let out in the

yard in the daytime. The quality of the food given to the minors had reportedly also deteriorated since the Special Rapporteur's visit. According to the information received, the Director of the facility, when asked by the public prosecutors to take measures to ensure the right to mental and physical integrity of the minors detained in his institution, indicated that he could not control all of his subordinates because of the large number of minors detained under his responsibility. In its reply of 30 August 2000, the Government stated that the State Secretary for Human Rights had requested the Secretary of Assistance and Development of São Paolo State to initiate investigations into these allegations.

II. INFORMATION RECEIVED FROM THE SPECIAL RAPPORTEUR ON THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

5. In an urgent appeal sent to the Government of Uruguay on 24 August 2000, the Special Rapporteur referred to reports that Mr. Alvaro Vergar, Chief of Police and Director of police headquarters in Montevideo, had been relieved of some of his managerial duties and demoted after a presentation he gave entitled "Violence, public order and democratic government" at a seminar organized by the United Nations Development Programme in July/August 2000.

6. On 23 December 1999, the Special Rapporteur sent an urgent appeal to the Government of Tunisia concerning Mr. Khémais Ksila, Vice-president of the Tunisian League for the Defence of Human Rights, who allegedly had been subjected to constant intimidation after he met with the Special Rapporteur during the latter's mission to Tunisia in early December 1999. Mr. Ksila had reportedly been followed by police officers and was involved in an allegedly arranged car accident on 14 December 1999. In its reply, the Government denied any involvement by the authorities in the surveillance of Mr. Ksila or in the car accident.

III. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, FEDERAL REPUBLIC OF YUGOSLAVIA

7. In early June 2000, in the town of Zajecar, representatives of OHCHR met with Mr. Aleksandar Djordjevic to discuss a court case the office was monitoring. Mr. Djordjevic had been involved in defending the person concerned, who was standing trial for allegedly having insulted the then President of Yugoslavia, Slobodan Milosevic. The same day, Mr. Djordjevic went to the police station in Zajecar to inquire about the detention of two activists of the student organization OTPOR who had been arrested while distributing leaflets. When he arrived at the police station, Mr. Djordjevic was reportedly taken to a room, where he was allegedly interrogated and beaten by the Deputy Chief of Police about his contacts with the OHCHR representatives. The Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia raised the incident in meetings with the Serbian Minister of Justice and the Federal Minister for Foreign Affairs.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report of the High Commissioner for Human Rights pursuant to Commission on Human Rights resolution 2000/24

Situation of human rights in Sierra Leone

GE.01-10719 (E)

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I. INTRODUCTION

1. In its resolution 2000/24, the Commission on Human Rights requested the High Commissioner for Human Rights to report to the Commission at its fifty-seventh session on the human rights situation in Sierra Leone, including with reference to reports from the United Nations Mission in Sierra Leone (UNAMSIL).

2. The Security Council, in its resolution 1321 (2000) of 20 September 2000, extended the mandate of UNAMSIL until 31 December 2000. The operational/functional mandate of UNAMSIL as established by the Security Council through its resolutions 1289 (2000) of 7 February 2000 and 1270 (1999) of 22 October 1999, and reiterated in resolution 1313 (2000) of 4 August 2000, include the following priority tasks:

(a) To maintain the security of the Lungi and Freetown peninsulas, and their major approach routes;

(b) To deter and, where necessary, decisively counter the threat of Revolutionary United Front (RUF) attack by responding robustly to any hostile actions or threat of imminent and direct use of force;

(c) To deploy progressively in a coherent operational structure and in sufficient numbers and density at key strategic locations and main population centres and, in coordination with the Government of Sierra Leone, to assist, through its presence and within the framework of its mandate, the efforts of the Government of Sierra Leone to extend State authority, restore law and order and further stabilize the situation progressively throughout the entire country and, within its capabilities and areas of deployment, to afford protection to civilians under threat of imminent physical violence;

(d) To patrol actively on strategic lines of communication, specifically main access routes to the capital, in order to dominate ground, ensure freedom of movement and facilitate the provision of humanitarian assistance;

(e) To assist in the promotion of the political process leading, inter alia, to a renewed disarmament, demobilization and reintegration programme where possible.

3. In its resolution 1315 (2000) of 14 August 2000, the Security Council, taking note of a plea from the President of Sierra Leone in a letter to the Secretary-General, requested the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court and recommended that the court should have jurisdiction over persons who bear the greatest responsibility for the commission of crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law committed within Sierra Leone. The Security Council also requested the Secretary-General to submit a report to it on the implementation of the resolution, in particular on his consultations and negotiations with the Government of Sierra Leone. The Secretary-General was further requested by the Council to report on questions relating to the nature and jurisdiction of the special court, its organizational structure and practical aspects of its establishment and functioning.

4. In paragraph 22 of resolution 1289 (2000) of 7 February 2000, the Security Council requested the Secretary-General to continue to report to the Council every 45 days to provide, inter alia, assessments of security conditions on the ground so that troop levels and the tasks to be performed by UNAMSIL could be kept under review.

II. HUMAN RIGHTS SITUATION

A. Reports of the Secretary-General to the Security Council

5. Since the High Commissioner submitted her previous report to the Commission on the human rights situation in Sierra Leone (E/CN.4/2000/31 of 22 December 1999), the Secretary-General has submitted the following eight reports, two additional reports and a letter on Sierra Leone to the Security Council: S/1999/1223 of 6 December 1999, S/2000/13 of 11 January 2000 and Add.1 of 21 January 2000, S/2000/186 of 7 March 2000, S/2000/455 of 19 May 2000, S/2000/751 of 31 July 2000, S/2000/832 of 24 August 2000 and Add.1 of 12 September 2000, S/2000/915 of 4 October 2000, S/2000/1055 of 31 October 2000 and S/2000/1199 of 15 December 2000.

6. In his reports of 6 December 1999, 11 January 2000 and 7 March 2000, the Secretary-General observed that the human rights situation remained grave. Arbitrary executions, rape, abduction and looting continued. The Secretary-General also remarked that the security situation in Sierra Leone remained a matter of serious concern, particularly in Port Loko area, where civilians living in ex-Sierra Leone Army (ex-SLA) controlled areas were still being abducted, raped and harassed, their property looted and homes burnt down. The Secretary-General warned the perpetrators that their actions were not covered by the amnesty under the Lomé Peace Agreement and they should therefore be held accountable. Violations and abuses remained rife in Revolutionary United Front (RUF)-controlled areas. The RUF had harassed civilians, imposed illegal taxes, used children as combatants, abducted men, women and girls and detained many in their illegal detention centres. The efforts of the Committee for the Release of Prisoners of War and Non-Combatants, chaired by UNAMSIL, to secure the release of a large number of abductees still held by RUF and ex-SLA elements remained ineffective due to lack of cooperation by RUF and ex-SLA. On a positive note, the Secretary-General reported that, through the efforts of UNAMSIL, ex-SLA elements and the RUF had released approximately 1,400 adults and children.

7. Human rights assessment missions in Port Loko, Makeni, Magburaka, Kabala, Kenema and Daru found an amelioration of the human rights situation in those areas where United Nations troops and military observers had been deployed. This is often the result of improved security conditions. The Secretary-General also referred to the launching by the UNAMSIL human rights section of a specialized training programme for national human rights monitors, police officers and UNAMSIL military personnel.

8. The relative improvement in the human rights situation was severely eroded with the resumption of armed confrontations in early May 2000. The deterioration resulted from unprovoked armed attacks on United Nations peacekeepers, the detention of several hundred United Nations personnel and the destruction of disarmament and demobilization camps by RUF fighters. In the context of the escalation of fighting once again in May 2000, all sides in the

conflict - the RUF and rebel militias, and, increasingly, elements of pro-government forces - committed crimes against the civilian population, including widespread mutilations, as well as sexual assault and rape of women. In his report of 19 May 2000, the Secretary-General expressed concern over serious human rights and international humanitarian law violations committed during the fighting in May 2000 by the RUF and the Armed Forces Revolutionary Council (AFRC)/ex-SLA. He called upon all parties to the conflict to refrain from such acts and work to restore respect for the rule of law throughout the nation.

9. The human rights situation in parts of the country, especially those areas not under the control of the Government, remained grave. The RUF and AFRC/ex-SLA had abducted civilians and used them for hard labour in palm oil plantations. There were also reports of activities disruptive of and/or resulting in the denial of access to humanitarian assistance. For instance, on 7 May 2000, the RUF had detained national and international aid workers in Alikalia, thus impeding humanitarian operations in the area. The Secretary-General also reported that the ex-SLA had harassed civilians and looted villages in Kabala. Meanwhile, dependants of ex-combatants, the majority of them women and children, expressed the need for special measures that would guarantee their safety. Most of these women and children had been abducted and would not freely express their wish to return to their original families in front of their AFRC/ex-SLA captors.

10. The report identified the protection of internally displaced persons (IDPs) as a matter of urgent concern. In Port Loko, IDPs who strayed away from the safe areas to meet their daily needs had often ended up being abducted, raped and forced to work for their captors. Humanitarian organizations estimate that the resumption of conflict in early May generated between 140,000 and 150,000 new IDPs. Thousands fled south from Lunsar, Makeni, Magburaka and adjoining areas towards the Masiaka-Mile 91 road, into Port Loko, Lungi, Mile 91 and surrounding villages.

11. The resumption of conflict in May 2000 was again characterized by the extensive use of child combatants. On 15 May, human rights officers on a visit to Masiaka had observed several armed child combatants between the ages of 7 and 14 years with the Civil Defence Force (CDF), AFRC/ex-SLA and the Sierra Leone Army. The RUF had also been known to use a larger proportion of children than the other militia within their fighting ranks. Some of the recruitment was coerced and others who joined "voluntarily" did so in circumstances that left them with no choice. On 31 May, the RUF reportedly killed a man and two boys in Maforay village near Port Loko after they refused to enlist. In early May, RUF commanders positioned vehicles at the gates of CARITAS-Makeni Interim Care Centre (ICC) in Makeni to urge boys to rejoin using a mixture of enticement and threat. According to the estimates of ICC staff, 25 to 30 boys from 14 to 17 years of age rejoined RUF. A 15-year-old boy reported that after his second recruitment at the gates of ICC, he had been a loader of a twin-barrelled truck-mounted anti-aircraft gun on the frontline. It appeared that a critical element of their decision to rejoin was the shortage of food at the Centre and the prospect of avoiding starvation through serving the RUF. On a positive note though, the Secretary-General, noted in his report that 1,700 child combatants out of an estimated 5,000 had joined the disarmament, demobilization and reintegration programme. Through the efforts of UNICEF, some children had already been reunified with their families.

12. In his report of 31 July 2000, the Secretary-General highlighted the human rights implications of the continued fighting for the civilian population. By interviewing newly arrived internally displaced persons at Mile 91 and in Port Loko, UNAMSIL had been able to document instances of summary executions and some new cases of amputations of civilians by the RUF. There were also credible allegations of people having been executed by the RUF "Small Boys Units" on suspicion of desertion or reluctance to fight for the group. Women and girls had continued to suffer gender-specific abuses. They had been abducted, beaten and forced to submit to their captors as "wives". Many women had, as a result of rape, contracted sexually transmitted diseases. It was difficult to ascertain the number of such victims since many suffered in silence for fear of stigmatization.

13. Attacks by government-operated helicopter gunships, according to eyewitness reports, had caused casualties among civilians. Following air attacks on Makeni and Magburaka between 31 May and 7 June, at least 20 civilians, including women and children, had been killed. The Secretary-General also reported that the Civil Defence Force (CDF) had committed extrajudicial killings, used children as soldiers and mistreated RUF detainees/prisoners under their custody. At Bo and Port Loko, UNAMSIL had paid special attention to the treatment of RUF personnel detained by the Government and government-allied forces. Suspected RUF members at Mile 91, in order to avoid reprisals by the Civil Defence Forces, had surrendered to the police in fear for their lives.

14. According to human rights reports from UNAMSIL, persistent fighting during the period was characterized by violations of human rights and humanitarian law. The reports documented cases of extrajudicial executions, mutilation, torture, abduction, forced recruitment and use of children and adults as soldiers, forced labour, wanton destruction and looting of civilian property and the massive internal displacement of persons. At the onset of the May crisis, rebels in Makeni attacked and killed four United Nations peacekeepers. In an incident on 8 May, supporters of Foday Sankoh, the RUF leader, shot at peaceful demonstrators in front of his house, killing about 20 and injuring 74 others. Eyewitness accounts also relate consistent stories of extrajudicial executions by the RUF during the period. For instance, in a case near Makumrie, an alleged RUF group executed a man and disembowelled his pregnant wife, killing her and the foetus. In June, three males were beaten to death with sticks by RUF elements in Bakelol village in Port Loko district. A 19-year-old woman reported the extrajudicial execution of her husband and co-wife and the mutilation of three abducted children in early May near Makeni. A 12-year-old girl interviewed by a UNAMSIL human rights officer at Connaught Hospital in Freetown reported the amputation of the hands of seven female civilians by the RUF at Mange. The rebels also broke her upper arm, which became badly infected. As she was only able to seek medical attention a month after the incident, her upper arm had to be amputated.

15. Human rights assessment missions conducted by the human rights section of UNAMSIL in the aftermath of the resumption of conflict in May reported several cases of rape and sexual abuse of women, a hallmark of the Sierra Leone conflict. Five women from Kampa (near Rogberi Junction) were abducted by RUF elements and raped in May. Three of the women interviewed were lactating at the time of the incident and two had to leave their babies with family members. The women were beaten with rifles. During a period of three days, six different men had raped one of the women who were interviewed. Two different men raped another of the women twice. In Makeni, a nurse reported that 20 cases of rape, including of girls

under 18, had been treated in April and May at the local clinic. Another government health worker had treated 19 cases of rape of girls under 18 in the Mile 91 area. Medical sources indicated that most women IDPs had contracted sexually transmitted diseases (STDs), frequently as a result of rape.

16. The Sierra Leone problem appeared to have taken a disturbing regional dimension when refugees from Sierra Leone (and also Liberia) in Guinea became victims of violence in the aftermath of tension originating from cross-border incursions into Guinea blamed on Liberia and the RUF. Many refugees and displaced persons fled Guinea to sections of the Lungi peninsula as they were subjected to continuous harassment while living within Guinean borders. In his report of 31 October 2000, the Secretary-General expressed concern over the human rights situation that prevailed along the Sierra Leone-Guinea border.

17. Within Sierra Leone, particularly in Port Loko and Kambia, civilians continued to be abducted, forcefully recruited into fighting forces and their properties looted by RUF elements. Human rights abuses perpetrated by the West Side Boys (WSB) in the Occra Hills area appeared to drop significantly following the 10 September 2000 British operation to rescue United Kingdom army personnel detained by the WSB, then occupying areas around the Occra Hills. However, there had been reports that the Gbetis, a government-allied CDF deployed in areas formerly occupied by the West Side group, had also committed human rights abuses against civilians, particularly in southern and eastern regions. The Gbetis had carried out summary executions, arbitrarily detained civilians, and extorted money and valuables at checkpoints. Such abuses had occurred despite orders issuing from the national Civil Defence leadership warning CDF rank and file members against such behaviour. The activities of the CDF have caused a rift between them and civilian police forces.

18. The Secretary-General also provided information on the outcome of the prison assessment missions conducted by the UNAMSIL human rights section in Freetown, Bo and Kenema prisons. Generally, prison conditions were assessed as not adequate, but there was no evidence of physical mistreatment of prisoners or detainees. Some children detained in Freetown Central Prison bore signs of serious skin diseases. WHO and UNICEF had taken up the matter with the prison medical authorities. Some concerns had been expressed regarding the condition of the so-called "political" detainees. They had been denied access to the outside world since their detention following the disruptions in May 2000. They did not have access to legal assistance and have not been informed of their status. No further detainees had been released since the release in August 2000 of 200 suspected members of the RUF and members of other fighting forces.

19. The resumption of armed conflict since May 2000 has reinforced the divisions within the country between rebel RUF-controlled areas - approximately 70 per cent of the territory - and areas under government control. The concomitant denial of access to the former remains a major constraint for any independent first-hand assessment of the human rights situation therein. However, information gathered from IDPs fleeing the rebel RUF-held areas suggest that the human rights situation remains of serious concern. For its part, the Government is pursuing a two-track approach based on military and political action to end the hostilities. It arrested the former rebel leader, Foday Sankoh, and is preparing to put him on trial. On 10 November 2000, the Government signed the Abuja Agreement, a ceasefire agreement, with the RUF led by an

interim leader, Issa Sesay (see S/2000/1091). The agreement provided for a monitoring role for UNAMSIL, full liberty for the United Nations to deploy nationwide and unimpeded movement of humanitarian workers, goods and people throughout the country. It also provided for the return to UNAMSIL of weapons and other equipment seized by RUF, the immediate resumption of the programme of disarmament, demobilization and reintegration (DDR), and a review of the implementation of the agreement after 30 days. Although there are no direct negotiations between the Government and the RUF, UNAMSIL has recommenced regular contacts and confidence-building measures, resulting in the RUF returning some equipment seized from UNAMSIL.

B. The independent special court

20. In resolution 1315 (2000) of 14 August 2000, the Security Council requested the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court. The court would have subject matter jurisdiction over crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law committed within the territory of Sierra Leone. Pursuant to this resolution, the Secretary-General, in his report of 4 October 2000 (S/2000/915), informed the Security Council that negotiations on the establishment of the independent special court had been held with the Government of Sierra Leone in both New York and Freetown. From 18 to 20 September 2000, a United Nations team visited Freetown. The team had met with the President of Sierra Leone, senior government officials, members of the judiciary and the legal profession, the Ombudsman, members of civil society, national and international non-governmental organizations and child protection agencies involved in the rehabilitation of child ex-combatants. The team also met with an OHCHR mission in Freetown regarding the establishment of the truth and reconciliation commission (TRC). Following the above-mentioned consultations, the Secretary-General proposed the legal framework and practical arrangements for the establishment of the special court (see S/2000/915).

21. In the above-mentioned report the Secretary-General highlighted the important roles of the independent special court and the TRC in ending impunity and promoting respect for the rule of law. Together, they will help bring closure to victims of human rights abuses.

22. In a subsequent exchange of letters, the President of the Security Council on 22 December 2000 (S/2000/1234) and the Secretary-General on 12 January 2001 acknowledged the important role the TRC would play regarding juvenile offenders. To that end, the United Nations would be collaborating with the Government of Sierra Leone and other relevant actors to develop suitable institutions, including specific provisions relating to children. In the context of its assistance to the establishment of the TRC, OHCHR, in collaboration with the Office of Legal Affairs, is preparing a consultative process to clarify the precise relationship between the TRC and the court (see sect. III.A below).

23. The President of the Security Council in his letter requested some adjustments to the draft statute of and agreement on the court in line with its comments. In this regard, he requested that the court should exercise personal jurisdiction over persons who bear the greatest responsibility - in other words, those who played leadership roles - for the commission of crimes within its subject matter jurisdiction. The Security Council recommended funding by voluntary

contributions. In recognition of the risks involved in commencing the operation of the special court on the sole basis of prospects of voluntary contributions, the Council proposed that the process of establishing the court should not commence until the United Nations Secretariat had obtained adequate funds to finance the establishment of the court and 12 months of the court's operation, and pledges to cover projected expenses for the second 12 months.

C. Children and armed conflict

24. In accordance with General Assembly resolution 53/128, the Special Representative of the Secretary-General on children and armed conflict, Mr. Olara Otunnu, submitted an additional report to the Commission at its fifty-sixth session (E/CN.4/2000/71). In an annex to this report, Mr. Otunnu stated that during his mission to Sierra Leone in August and September 1999, he had visited war affected populations in the vicinity of Freetown and the region of Bo, several IDP camps and vocational training centres. He had visited the Family Home Care Centre for Child Combatants in Lakka on the outskirts of Freetown where he met a cross section of children, many of whom were seriously traumatized. These included: a 15-year-old mother who had recently been released from behind rebel lines; orphaned children between the ages of 3 and 4; and ex-child combatants between the ages of 12 and 16.

25. The Special Representative relayed several disturbing experiences, including his visit to the Murray Town Camp for Amputees in Freetown. The camp accommodates and provides rehabilitation training to some 260 victims of amputations and 100 war wounded, many of whom are children. The youngest child he met, Abu, then 10 months old, had had his legs cut off by rebels when he was just two months old. The Special Representative stated that many children had been deliberately maimed, their limbs brutally cut off. In the month of January 1999 alone over 4,000 children were abducted during the incursion of the RUF and the AFRC into Freetown. He indicated that informed estimates suggested that 60 per cent of the abducted children were girls, most of whom had been sexually abused. According to his report, thousands of children have been serving as soldiers in the three main fighting groups, the RUF, AFRC/ex-SLA and the CDF. Over 3 million Sierra Leoneans, more than 60 per cent of them children - two thirds of the total population - have been internally displaced by war or are refugees outside Sierra Leone. Among them are some 10,000 children who have been separated from their parents. Several thousand children have been orphaned. There are more than 3,000 "street children" in Freetown alone and many children are suffering from serious psychosocial trauma.

D. Violence against women/extrajudicial, summary or arbitrary executions

26. The Special Rapporteur on violence against women, Ms. Radhika Coomaraswamy, concerned by the massive abuse and rape of women in the context of the Sierra Leone conflict, requested to visit the country, but has yet to receive any response from the Government. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, is also still awaiting the response of the Government of Sierra Leone to her request to visit the country.

E. Contemporary forms of slavery

27. The Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights on contemporary forms of slavery, Ms. Gay J. McDougall, in her report to the Sub-Commission of 6 June 2000 (E/CN.4/Sub.2/2000/21) stated that she had participated in a mission to Sierra Leone in June 1999 at the invitation of the High Commissioner for Human Rights. The Lomé Peace Agreement had brought about a relative reduction in many of the worst abuses. Notwithstanding, the sexual assault against women and girls continued unabated. Indeed, that pattern of violation had escalated in the context of the resumption of armed conflict in May 2000. All the fighting forces, especially the rebel RUF militia, had committed crimes against the civilian population, including widespread rape, sexual assault and mutilation of women. Many of the rapes took place when the victims were abducted and forced to become sexual partners of their captors. Girls as young as 10 years old, were abducted by rebel forces and forced to become sexual slaves.

F. Freedom of expression

28. Although the Special Rapporteur on the freedom of opinion and expression, Mr. Abid Hussain, did not send any communication to the Government of Sierra Leone in 2000, the situation of freedom of expression in the country is a matter of concern to him. In the context of the resumption of hostilities, Sierra Leone is considered by many international NGOs to be one of the most dangerous countries in the world for journalists. In 1999, 10 journalists were killed in Sierra Leone. In 2000, rebel RUF forces killed three journalists in the country.

III. HUMAN RIGHTS ACTIVITIES OF THE UNITED NATIONS IN SIERRA LEONE

29. The United Nations Mission in Sierra Leone (UNAMSIL) was established pursuant to Security Council resolution 1270 (1999) of 26 October 1999, as successor to the United Nations Observer Mission in Sierra Leone (UNOMSIL), which had been established in 1998 pursuant to Security Council resolution 1181 (1998). Mr. Oluyemi Adeniji, the Special Representative of the Secretary-General is the head of the United Nations Mission. With military and civilian components, UNAMSIL has a multidisciplinary mandate to cooperate with the Government of Sierra Leone and other parties to the Lomé Peace Agreement in its implementation of the Lomé Agreement and to assist in the disarming, demobilization and reintegration of ex-combatants.

30. The relationship between OHCHR and UNAMSIL emanates from the Memorandum of Understanding between OHCHR and the Department of Peace-keeping Operations of the United Nations. This relationship is further strengthened by the terms of the Sierra Leone Human Rights Manifesto adopted in June 1999 during the visit of the High Commissioner (see E/CN.4/2000/31, para. 26).

31. After the signing of the Lomé Peace Agreement, the Security Council authorized the assignment of another nine officers to the previous five-officer Human Rights Section. The human rights mandate of UNAMSIL has been adapted to the complex situation in the country and focuses on four areas: monitoring, reporting, intervention and technical cooperation. The Section has developed a mechanism for tracking implementation of the human rights elements of

the Lomé Peace Agreement. At the time of the resumption of conflict in early May 2000 and the partial evacuation of international personnel, and on the guidance of OHCHR headquarters, the UNAMSIL Human Rights Section retained a substantial presence on the ground to monitor violations of human rights and humanitarian law. The Section issues internal weekly and monthly reports that are widely circulated within the United Nations system. Additionally, it publishes a periodic newsletter that discusses human rights issues in Sierra Leone. At various levels and with various actors, UNAMSIL undertakes interventions on individual and thematic human rights concerns.

32. Under the general guidance of OHCHR headquarters, the Human Rights Section plays an important role in identifying human rights issues relevant to the humanitarian community and the United Nations agencies active in Sierra Leone. The Section, in collaboration with the United Nations agencies, and local and international NGOs, established a Sierra Leone human rights committee, which meets fortnightly, providing a forum for consultations and the exchange of ideas and information between human rights and humanitarian actors. To promote local capacity, the Section works alongside human rights NGOs, including the umbrella organization of the local human rights community, the National Forum for Human Rights, on joint projects, including providing training programmes and much needed assistance to the local NGOs and the wider civil society. The Human Rights Section has also been active in providing regular human rights training for the law enforcement agencies, new UNAMSIL peacekeepers, military observers and civilian police. It is currently providing human rights training for the newly trained Sierra Leonean Army. During the year, approximately 1,500 local police officers also benefited from this training exercise. To standardize police training and adapt it to the Sierra Leone environment, the Section has finalized arrangements to produce a training manual for the police.

33. The increased operational capacity of the Human Rights Section will improve its potential to ensure the successful implementation of the UNAMSIL human rights projects contained in the Consolidated Inter-Agency Appeal for Sierra Leone in 2001. These projects, to be implemented in cooperation with OHCHR, consist of: (a) the creation of a human rights information/documentation centre; (b) data collection and analysis: conflict related rape and sexual abuse; (c) the provision of technical assistance to the judicial system; (d) strengthening of national human rights NGO capacities.

34. The Section also provides support on the ground to the commitment of OHCHR to assist the establishment of a national human rights commission and a truth and reconciliation commission.

35. During the year and especially following the resumption of armed conflict in Sierra Leone in May 2000, the High Commissioner called on several occasions for the provision of international support to the people of Sierra Leone, an end to violence, and reconciliation and justice for the victims of human rights violations. The High Commissioner's report to the General Assembly (A/55/36), statement to the Third Committee of the General Assembly on 24 October 2000 and briefing of the informal session of the Commission on Human Rights on 15 September 2000 contained references to the human rights situation in Sierra Leone.

36. During the initial period of the resumption of armed conflict in May 2000, OHCHR established a Sierra Leone task force in Geneva to link with its UNAMSIL Human Rights Section in its response to the human rights related aspects of the conflict. OHCHR has designed, within the unit, specialist positions focusing on Sierra Leone's most pressing human rights needs, including children's rights, gender issues, training, the rule of law and capacity building for civil society and national institutions. In order to provide a practical opportunity for the victims of the Sierra Leone crisis to rebuild their lives and communities, the Voluntary Fund for Victims of Torture has set aside an amount of $300,000 for emergency assistance for victims of torture in countries where assistance is lacking. Under this programme, high priority is given to victims of amputation and mutilation in Sierra Leone.

37. OHCHR provided assistance in the establishment of a truth and reconciliation commission (TRC) and is assisting the process of establishing a national human rights commission, as stipulated in the Lomé Peace Agreement. The Office is cooperating with the Office of Legal Affairs of the United Nations to ensure that the independent special court to be established will comply with established international human rights standards. In this context also, OHCHR and the Office of Legal Affairs as the offices responsible for United Nations assistance for the establishment and functioning of the TRC and the Court respectively, have commenced a process of consultation aimed at clarifying the relationship between the two institutions. This process, it is believed, will prepare the groundwork for the two institutions to cooperate in a complementary and mutually supportive manner, fully respectful of their different but related functions.

A. Establishment of a truth and reconciliation commission

38. Consistent with Commission on Human Rights resolution 2000/24, the Lomé Peace Agreement and undertakings under the Sierra Leone Human Rights Manifesto, OHCHR provided technical assistance to the Government of Sierra Leone in drafting the Truth and Reconciliation Commission Act. The Act, approved by the Parliament on 22 February 2000, reflected the best international practice on the subject. According to the Act, the Commission should provide an impartial historical record of violations and abuses of human rights and international humanitarian law related to the conflict, address impunity and respond to the needs of victims. It should also aim to promote healing and reconciliation and prevent a repetition of the violations and abuses. Accordingly, OHCHR has developed a project for the preparatory phase of the TRC. The implementation of this project was temporarily delayed due to the events of May 2000. It has since recommenced with the development of an updated programme of support to the TRC process in Sierra Leone. The High Commissioner and the Special Representative of the Secretary-General have already recommenced the process of selecting the international and national commissioners respectively for the Commission, as required under the TRC Act.

39. OHCHR and UNAMSIL jointly organized an international workshop on the truth and reconciliation commission in Freetown on 16 and 17 November 2000. It was attended by representatives of the Government of Sierra Leone, including the Vice-President, who opened the workshop, and five cabinet ministers, the Special Representative of the Secretary-General, Ambassador Oluyemi Adeniji, officials of various diplomatic missions, religious leaders, representatives of NGOs and paramount chiefs.

40. In a communiqué, the workshop participants urged that preparations for the TRC should go forward, and expressed the view that the commission could exist side by side with the special court and that the two initiatives should complement each other. They also recommended a comprehensive public awareness campaign on the commission within Sierra Leone and among Sierra Leonean refugees. Participants also recognized that the TRC could potentially contribute to the implementation of other peace-building initiatives in Sierra Leone including programmes for disarmament, demobilization and reintegration, resettlement, reconstruction and rehabilitation and the release of the abducted, as well as respect for human rights.

41. Participants in the workshop also recommended that:

(i) A consultative process should be put in place to work out the relationship between the TRC and the special court, with particular emphasis on the question of timing;

(ii) A working group be convened of experts on children's rights, juvenile rehabilitation and related issues to develop proposals for the TRC on how to deal with those matters;

(iii) A comprehensive public awareness campaign on the TRC be commenced immediately;

(iv) The identification of national and international commissioners be started as soon as possible;

(v) The TRC process should take full cognisance of traditional reconciliation processes.

42. To lay the foundation for the work of the TRC and to ensure ownership of the process by Sierra Leoneans, OHCHR has commissioned a local NGO to carry out research on traditional methods of conflict resolution and reconciliation in Sierra Leone. In the context of its assistance to the establishment of a properly formatted TRC in Sierra Leone OHCHR is working in collaboration with UNAMSIL and other relevant partners to ensure the timely implementation of the recommendations of the international workshop on the TRC. OHCHR will continue to support the truth and reconciliation process, as well as the steps leading to the establishment of the commission, as envisaged in the Lomé Peace Agreement. It stands ready to provide further assistance to the commission once it is established.

B. Human rights commission

43. OHCHR, through its UNAMSIL Human Rights Section has worked with the Government of Sierra Leone in the preparation of legislation for the human rights commission and in discussing modalities for the creation of the institution. Following two visits to Sierra Leone during 1999 by the High Commissioner's special adviser on national institutions, a national institutions specialist was deployed within the Human Rights Section to provide technical assistance and support during the establishment phase of the national human rights commission.

44. Because of the renewal of hostilities in May 2000, endeavours to establish the Commission were temporarily suspended. The process resumed late in the year with the holding on 15 and 16 December 2000 of the Workshop on the Establishment of the Sierra Leone Human Rights Commission. The workshop was organized by OHCHR in collaboration with the UNAMSIL Human Rights Section and the National Forum for Human Rights. The workshop was attended by 40 participants representing all sectors and regions in Sierra Leone, as well as the chairpersons of the national human rights commissions of Ghana and Uganda. During his opening statement, the Minister of Presidential Affairs reiterated the Government's commitment to the establishment of the commission. The Attorney-General and Minister of Justice introduced the draft founding legislation for discussion and comment. The workshop supported the establishment, by act of Parliament as soon as possible, of an independent, adequately funded national human rights commission. A committee, including UNAMSIL representation, was established to finalize comments on the draft legislation and forward them to the Government.

IV. CONCLUSIONS

45. The needs of Sierra Leone call for an enormous programme of international support and assistance. The United Nations must continue to play a central role in this regard. OHCHR is convinced that, just as the violation of human rights is at the root of the conflict in Sierra Leone, respect for human rights should form the cornerstone of any viable effort to restore Sierra Leone society. In this context, OHCHR will continue to assist in building national capacities in the area of human rights, the rule of law, and democracy. This will include technical assistance for the establishment of a truth and reconciliation commission and a national human rights commission; capacity building through training for law enforcement authorities; support for the local human rights community; and programmes to rehabilitate war victims, especially women and children. OHCHR continues to count on the support of member States in the implementation of its Sierra Leone programme.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report of the High Commissioner for Human Rights on the Situation in the Republic of Chechnya of the Russian Federation

GE.01-11369 (E)

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I. INTRODUCTION

1. At its fifty-sixth session, the Commission on Human Rights adopted resolution 2000/58 of 25 April 2000 on the Situation in the Republic of Chechnya of the Russian Federation. The Russian delegation voted against the resolution and stated that its cooperation with international human rights bodies and mechanisms with regard to the situation in the Chechen Republic of the Russian Federation would not be linked to that resolution. The Commission requested the High Commissioner for Human Rights to report on the implementation of the resolution to the Commission at its fifty-seventh session and to keep the Commission and the General Assembly informed on further developments, as appropriate

2. The High Commissioner informed the Commission on Human Rights at its informal one day session on 15 September 2000 and the Third Committee of the General Assembly on 24 October 2000 of developments regarding the resolution and her communications with the Government of the Russian Federation. The present report provides a summary of information received from the Government, as well as information on activities undertaken by the Office of the High Commissioner for Human Rights (OHCHR), United Nations agencies and programmes, and regional and non-governmental organizations.

II. OHCHR ACTION

3. The High Commissioner for Human Rights reported on the visit which she had undertaken from 31 March to 4 April 2000 to the Russian Federation, including Chechnya and the surrounding region, to the Commission on Human Rights at its fifty-sixth session. The High Commissioner has had frequent contacts with the Government of the Russian Federation since her visit. She requested information from the Russian authorities concerning various aspects of the implementation of resolution 2000/58. In response, she received letters from the Minister for Foreign Affairs, informational materials (the most recent dated 31 January 2001) and reports of the Office of the Special Representative of the President of the Russian Federation for the Promotion of Human and Civil Rights and Freedoms in the Chechen Republic, headed by Mr. Vladimir Kalamanov.

4. In her correspondence and meetings with Russian officials, the High Commissioner addressed the following concerns inter alia: loss of life and heavy casualties; continuing allegations of serious human rights violations by the federal army and security forces; visits to Chechnya by the special mechanisms of the Commission on Human Rights; the provision of international humanitarian assistance to Chenchya and the neighbouring Russian republics; access for the International Committee of the Red Cross (ICRC) to detention facilities in Chechnya and in other parts of the Russia Federation where Chechens are held; follow-up to complaints on human rights violations, including the number of criminal cases opened, and identification of the specific charges and incidents; safeguarding due process for Chechens detained; the social and economic rights of the Chechen people, including internally displaced persons (IDPs); and the serious humanitarian situations in Ingushetia and Dagestan in the context of large numbers of IDPs. Information received from the Government is presented below in paragraphs 12 to 33.

5. In resolution 2000/58, the Commission called on the Russian authorities to carry out an independent investigation into the alleged human rights violations in Chechnya. OHCHR provided the Government with a compilation of basic international standards and other documents relevant for such a procedure.

6. In response to the High Commissioner's inquiries, the Government provided information on the number of criminal cases opened and charges filed by the military procuracy for alleged crimes by the military against civilians in Chechnya (see paragraphs 17 and 22 below). Similar information has not been received regarding alleged violations by Ministry of Interior troops and militia, who are under the responsibility of the civilian procuracy.

7. Since the fifty-sixth session of the Commission, OHCHR exchanged information with the chief United Nations agencies and regional organizations working in relation to Chechnya. A summary of information provided by these organizations is contained in paragraphs 34 to 38 below.

8. The Commission requested the relevant special rapporteurs and working groups of the Commission, i.e. the Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on violence against women, the Special Representative of the Secretary-General on internally displaced persons and the Special Representative of the Secretary-General for children and armed conflict, to undertake missions to the Republic of Chechnya and neighbouring republics and asked them to report to the Commission and to the General Assembly. The Government of the Russian Federation has taken the position that requests for visits to Chechnya and the region would only be possible within the general framework of the mandates of the special mechanisms and without any link to Commission on Human Rights resolution 2000/58.

9. The High Commissioner has been in contact with the Government of the Russian Federation with a view to facilitating the visits. The Russian authorities have extended invitations to the Special Rapporteur on violence against women and the Special Representative of the Secretary-General for children and armed conflict to visit the North Caucasus region of the Russian Federation. The Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on internally displaced persons have requested visits to the region, but have not received invitations. The Special Rapporteur on violence against women and the Special Rapporteur against torture made a request for a joint mission. Clarification was requested from the Russian authorities in September 2000 as to why the Special Rapporteur against torture was not invited and a joint visit facilitated.

10. In their reports to the Commission on Human Rights[1] the holders of the respective mandates provide detailed information regarding their requests for visits and their communications on specific cases and the responses received from the Government of the Russian Federation. The Special Rapporteur against torture sent inquiries on 61 individual cases and received replies regarding seven. The Special Rapporteur on extrajudicial, summary or arbitrary executions sent inquiries on 98 individual cases, including seven unnamed persons, and received responses regarding three cases. The Special Rapporteur on freedom of opinion and expression sent inquiries on three individual cases, and received responses on all three. The

Special Rapporteur on violence against women sent inquiries on two individual cases and received replies on both. A joint urgent appeal was sent to the Russian authorities on 3 March 2000 by the Special Rapporteur against torture, the Special Rapporteur on violence against women, the Working Group on Arbitrary Detention, and the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the general situation of human rights in Chechnya, and in particular regarding filtration camps. No reply was received.

11. The Government of the Russian Federation continues its cooperation with OHCHR in other areas. In September 2000, an expert meeting on the status and future of human rights education in Russia was held in Moscow. This meeting initiated a three-year project of technical cooperation signed by the High Commissioner in Moscow with the Russian Ministry of Foreign Affairs in June 1999. The project is funded by the OHCHR Voluntary Fund for Technical Cooperation and is intended to provide support for capacity and resource development in the area of human rights education. The project includes the strengthening of a national network of organizations working in this field. Teachers, students and education professors will take part in regional and national training activities and competitions. Other activities will include training of trainers, internships, dissemination of information through the Internet, television and educational newspapers, and the provision of core human rights publications to higher education libraries, the judiciary, the legislature, executive agencies and non-governmental organizations at the national and regional levels.

III. INFORMATION FROM THE GOVERNMENT OF THE RUSSIAN FEDERATION

12. In response to requests from OHCHR, written communications were received from the Ministry of Foreign Affairs of the Russian Federation on 23 August 2000, 12 October 2000 and 31 January 2001. In addition, the Special Representative of the President of the Russian Federation for the promotion of human and civil rights and freedoms in the Chechen Republic, Mr. V. Kalamanov, has sent two interim reports issued in July and October 2000 and an annual report issued in December 2000. Details of the information contained in the above-mentioned communications are provided in this section.

13. The Government of the Russian Federation reaffirms that it is prepared to continue a constructive, frank and responsible dialogue as well as cooperation with OHCHR and the special mechanisms of the Commission on Human Rights in respect of all aspects of the protection of the rights and freedoms of the individual, the protection of national minorities and the dissemination of human rights information and culture. This also holds good in respect of the situation in the Republic of Chechnya of the Russian Federation.

14. The Russian authorities state that large-scale military activities are no longer taking place in Chechnya. They report that on 22 January 2001, V.V. Putin, the President of the Russian Federation, decided to reduce considerably the size of military formations in the Republic of Chechnya. Further, they state that the main efforts of the federal and local authorities are now focused on establishing local power structures and a judicial system, restoring lawfulness and the rule of law, rebuilding the social and economic infrastructure, and safeguarding democracy and human rights. The Government reports that the basic premise of the Russian leadership is that the "Chechen question" can be solved only by political means.

15. Yet the Russian authorities report that the situation in the Chechen Republic remains tense. They note that the remaining fighters are continuing to mount diversionary and terrorist attacks, laying landmines and abducting people. They state that recent terrorist attacks indicate that the fighters have changed their tactics and are now intimidating the population of the Chechen Republic by concentrating on civilians and members of the local authorities and Muslim religious leaders. According to information provided on 31 January 2001 by the Russian Ministry of the Interior, 27 members of the Chechen administration have been killed and 80 injured during the previous three months. Further, the Russian authorities state that on 9 January 2001, Chechen fighters kidnapped K. Gluck, a member of the international NGO, Médecins sans frontières.[2]

16. The Russian Federation reports that the main purpose of the separatists is to destabilize the situation in the Chechen Republic and to undermine the national reconciliation process. They note that, in present conditions, the priority aim of the joint armed forces in the North Caucasus region is to ensure the safety and the normal daily activities of the civilian population of the Chechen Republic. During the past year, the Russian Federation reported that it pursued a well-planned and purposeful policy in Chechnya in its efforts to safeguard human rights and investigate human rights violations, regardless of who perpetrated them. The Russian authorities state that establishing the facts in cases of human rights violations in Chechnya and bringing the guilty parties to justice are the responsibility of the Office of the Procurator-General of the Russian Federation and one of its departments, namely, the Office of the Military Procurator.

17. The Russian authorities report that subordinate bodies of the Office of the Military Procurator are at present dealing with 740 cases of crimes committed by servicemen, including 35 committed against local inhabitants. They state that of this total, 12 cases involve murder, 1 death by negligence, 6 the theft of property, 2 hooliganism, 2 violation of regulations governing the use of weapons, 6 violation of regulations on the use of military and special vehicles and 6 the deaths of citizens as a result of aerial and artillery bombardment. They note that criminal proceedings have been initiated in respect of the deaths of the inhabitants of the villages of Aldi and Alkhan-Yurt and of the Mekenskaya and Cherdlennaya localities. The authorities report that investigations concerning these cases are continuing. They also state that the investigation of eight criminal cases has been completed and these cases have been referred to a court.

18. The Government of the Russian Federation reports that procuratorial investigators in various districts and towns of the Chechen Republic are looking into 946 general criminal cases. They state that these involve crimes against the life and health of citizens, against the freedom, honour and dignity of the individual and against the security of society. The investigators have completed their investigations of 714 criminal cases. Of this number, 55 have been referred to a court, including 9 involving murder, 37 are connected with other criminal cases and 176 have been referred for further investigation to other agencies. The authorities report that investigations carried out have determined that: (a) in 39 cases the suspect is in hiding; (b) in one case the suspect is in hospital; and (c) in 311 cases the suspect cannot be found. The investigation of 232 criminal cases is continuing; 185 of these involve murder.

19. The Government reports that the restoration of the court system in the Chechen Republic is well under way. It states that a total of 27 federal judges, all of whom are of Chechen

nationality, have been appointed and the Supreme Court of Chechnya has been organized. It notes that the further strengthening of the Republic's judicial bodies is of prime importance in consolidating the constitutional regime and safeguarding human rights.

20. The Government reports that an important role in the process of investigating human rights violations continues to be played by the Special Representative of the President of the Russian Federation for the Promotion of Human and Civil Rights and Freedoms in the Chechen Republic (V.A. Kalamov). The authorities note that, in the opinion of Russian and international experts, this mechanism has demonstrated its value and effectiveness during the past year. They report that over 12,000 persons have appealed (5,485 in writing) to the Office of the Special Representative of the President of the Russian Federation for the Promotion of Human and Civil Rights and Freedoms in the Chechen Republic since its establishment. The Office has paid special attention to the restoration in Chechnya of the court system, the Bar, the protection of the rights of persons forced to leave their place of residence, the protection of the right of citizens to freedom of movement, the search for missing persons, monitoring compliance with Russian legislation and international humanitarian law by the military, and the development of social infrastructures.

21. The Russian authorities state that they have made arrangements for a permanent international presence in Chechnya. They report that since 20 June 2000 three experts from the Council of Europe have been working on a rotating basis in the Office of the Special Representative. The agreement on which their presence in Chechnya is based expired on 4 October 2000 but was extended for a further six months.

22. A National Public Commission for the Investigation of Human Rights Violations and the Observance of Human Rights in the Chechen Republic was established and is presided over by Mr. P.V. Krasheninnikov, a member of the State Duma of the Federal Assembly of the Russian Federation. The Russian authorities report that international experience in this area, including the documentation provided by OHCHR, was referred to in establishing this Commission. The Russian authorities state that the Public Commission, in the course of its activities, maintains contact with Russian law enforcement agencies and courts but acts independently through public organizations and other social institutions. They note that the Commission has, for example, established close ties with Russian and foreign human rights organizations and the Chechen diaspora in Moscow and other regions of Russia. Members of the Commission have regular contacts with the diplomatic corps, the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE). The Russian authorities note that the Commission has established offices for receiving the public in nine localities in Chechnya and three in Ingushetia and Moscow. According to information received, the Commission is following the investigation of about 300 cases of human rights violations being conducted by the Procurator-General of the Russian Federation.

23. The authorities report that under the government plan for developing cooperation with the special mechanisms of the Commission on Human Rights, R. Coomaraswamy, the Special Rapporteur of the Commission on Human Rights on the question of violence against women, and O. Otunnu, the Special Representative of the United Nations Secretary-General on children in armed conflicts have been invited to visit Russia, including the North Caucasus region. They note that as they have already stated on a number of occasions, such visits by special rapporteurs

are possible only on the basis of their general mandate and are not related in any way to Commission resolution 2000/58. The Russian authorities further state that they reply regularly and without delay to questions raised by the special rapporteurs of the Commission on Human Rights concerning alleged human rights violations in the Chechen Republic. They note that during the past year over 20 such queries were received; answers to virtually all of them were transmitted to OHCHR, and law enforcement agencies of the Russian Federation are continuing their investigations in connection with the few remaining questions.

24. The authorities report that a system has been established for transporting and distributing Russian and international assistance to the population of the North Caucasus region. They state that Russia is cooperating actively with international humanitarian agencies, including UNHCR, OCHA, ICRC, UNICEF, WHO and WFP. Further, they note that, according to UNHCR, about 40 humanitarian NGOs are active in the region at the present time. The Russian Federation reports that access by members of humanitarian organizations to the needy population is guaranteed by the federal authorities, and only in a few cases is it restricted for safety reasons. They note that Ms. S. Ogata, the United Nations High Commissioner for Refugees, visited Russia from 22 to 24 October 2000 to pursue the dialogue on humanitarian matters.

25. The Russian authorities note that following the abduction of K. Gluck by terrorists (see paragraph 15 above), humanitarian agencies and the overwhelming majority of humanitarian NGOs suspended their humanitarian assistance work for the population of the Chechen Republic. The Russian Federation reports it is making arrangements to ensure that they can resume their activities in Chechnya.

26. The Government reports that it once again demonstrated its readiness to continue its cooperation with OSCE on the Chechen problem on the basis of the legitimate interests and requirements of the federal authorities. It notes that agreement on the status of the members of the OSCE Assistance Group in Chechnya has been reached. The process of negotiation of the remaining aspects of cooperation with the Assistance Group continues.

27. Information received from the Russian authorities indicates that on the basis of an agreement reached between Mr. I.S. Ivanov, the Minister for Foreign Affairs of the Russian Federation, and Mr. J. Kellenberger, the President of ICRC, in an exchange of letters on 30 January 2001, ICRC staff members have access to all persons detained by the federal authorities in connection with anti-terrorist operations in the Chechen Republic. They report that such access is provided to ICRC staff members at all stages of the detention of such persons and regardless of where they may be, that is to say not only in Chechnya but also in other regions of Russia. They report that these persons are visited by ICRC officials on the basis of rules established by that organization. According to information provided by the Russian Central Department for the Execution of Sentences (GUIN) of the Ministry of Justice of the Russian Federation, visits during 2000 by Red Cross delegates to establishments of the criminal punishment system resulted in concrete measures being taken to improve the conditions of detention of prisoners, the medical care available to them and contacts with their relatives. The authorities report that on 29 November 2000 the agreement between Russia and ICRC was extended for six months.

28. The Russian authorities state that the public is focusing on the question of the observance of human rights in the Chechen Republic. They note that this was demonstrated once again in September 2000 in the State Duma of the Federal Assembly during parliamentary hearings on "The organization of activities with a view to the rehabilitation of the economy and the social sphere and the observance of the rights and freedoms of individuals and citizens in the Chechen Republic". The Russian authorities report that Mr. V. Schwimmer, the General Secretary of the Council of Europe, and a PACE delegation headed by Lord Judd took part in the hearings and noted in particular that they were both open and constructive. The Government states that the participants in the hearings recommended that the President and Government of the Russian Federation take measures with a view to improving the coordination of the work of the federal agencies in the Republic of Chechnya and control of their activity, optimizing the system for the internal administration of the Republic and activating the process of peaceful administration. The Russian authorities note that in the opinion of the participants in the hearings, resolution of the Chechen crisis could be facilitated by development and implementation of federal programmes for the return of the forcibly displaced; provision of employment for the population of Chechnya; re-establishment of the medical system; and re-establishment and development of the education system. Further, they note that participants in the hearings expressed concern about the increase in the number of human rights violations by military servicemen. The authorities note that the participants in the hearings recommended that the Ministry of Defence develop measures regarding unacceptable use of force, violence and oppression against the civilian population.

29. The Russian authorities state that a new ministerial post has been established in the Russian Federation (Decree of 28 November 2000 of the President of the Russian Federation) under the plan for giving effect to these recommendations and implementing a policy for the rehabilitation of Chechnya in order to strengthen coordination of the activities of federal executive agencies dealing with the social and economic development of the Chechen Republic. Mr. V.V. Elagin has been appointed to this post. A programme for the rehabilitation of the economy and social infrastructure of Chechnya for 2001 has been submitted to the Government of the Russian Federation for approval. The authorities note that the total cost of this programme is 16.3 billion roubles.

30. The Russian Federation reports that the work of public and State agencies responsible for ensuring the observance of human rights in the Chechen Republic is being coordinated to a great extent by the State Duma's Commission for the Normalization of the Socio-political and Socio-economic Situation and Observance of Human Rights in the Chechen Republic (its ad interim Chairman is Mr. V.N. Nikitin). They note that the Commission collects and analyses complaints and letters from the people of Chechnya relating to the observance of the rights to work and to protection against unemployment, and the rights to health protection and education. Further, they state that members of the Commission pay particular attention to the task of ensuring the right of citizens to legal defence and qualified legal assistance.

31. In the communication received by OHCHR on 31 January 2001, extensive details were provided regarding the education and training of military and law enforcement officials in the area of humanitarian law and human rights. It was reported that numerous courses are conducted in military and law enforcement training institutions, and that the ICRC also provides a wide range of assistance in this area.

32. The Russian authorities state in the information provided that the resolution entitled "Situation in the Republic of Chechnya of the Russian Federation" adopted by the Commission on Human Rights at its fifty-sixth session is unacceptable to Russia. In their view it was motivated exclusively by political considerations and in no way reflects the true situation in Chechnya. They report that a system of State and public institutions has been established to safeguard and protect all human rights and freedoms and to restore lawfulness. The Russian authorities state that in the opinion of Russian and impartial international observers, the human rights situation in Chechnya is improving steadily.

33. The Russian Federation reports that there is a conviction in Russia that the restoration of lawfulness, the rule of law, human rights and democracy in the Chechen Republic can be achieved only through cooperation and dialogue and not by attempts to exert political pressure.

IV. INFORMATION FROM REGIONAL ORGANIZATIONS, UNITED NATIONS AGENCIES AND PROGRAMMES, AND OTHER ORGANIZATIONS

Council of Europe

34. Information received from the Council of Europe is summarized below:

(a) The Committee of Ministers follows developments in Chechnya closely, on the basis of regular monthly reports of the Secretary-General on the presence of the Council of Europe experts in the Office of Mr. Kalamanov. The Parliamentary Assembly (PACE) discusses the situation regularly on the basis of reports presented by the Rapporteur of the Political Affairs Committee (Lord Judd) following his visits to Russia, including Chechnya. On 6 April 2000, members of the Russian delegation to PACE were deprived of their voting rights in the Assembly. A debate on this issue took place during the 22 to 26 January 2001 session of PACE. On 25 January 2001, the Parliamentary Assembly adopted resolution 1241, which reads in part:

> "Despite some recent progress made, the Assembly remains gravely concerned about the human rights situation in the Chechen Republic. It nevertheless believes that the Russian parliamentary delegation deserves to be given another chance to prove that it is willing - and able - to influence the situation in the Chechen Republic for the better. The Assembly, having examined the issue, decides to ratify the credentials of the new Russian delegation."

(b) The Parliamentary Assembly decided to join forces with Russian parliamentarians and set up a small joint working group of representatives of the Assembly and the State Duma to keep under constant review the progress made on the Assembly's recommendations, as well as on the recommendations formulated by the members of the Duma following the hearing in September 2000, with regard both to the human rights situation and to the overall reconstruction effort. The working group will make regular reports to the Assembly and to the State Duma.

(c) On 4 April 2000, the Secretary-General of the Council of Europe concluded an agreement with the Minister for Foreign Affairs of the Russian Federation on Council of Europe consultative expert assistance to the Office of the Special Representative of the President of the Russian Federation for the Promotion of Human and Civil Rights and Freedoms in the Chechen

Republic. This agreement has been extended until 4 April 2001. On the basis of this agreement, three Council of Europe staff members have been working in the Office of Mr. Kalamanov in Znamenskoye since June 2000 on a rotating basis. The Council of Europe experts helped establish the Office and start and develop its operations.

(d) The Council of Europe Human Rights Commissioner has visited Chechnya twice and is preparing to make a new visit to the region (possibly in February 2001). Following his proposal, a seminar on "Democracy, rule of law and human rights" was jointly organized by the Government of the Russian Federation and the Council of Europe in Vladikavkaz, Russia on 30 and 31 May 2000.

(e) The European Court of Human Rights has received approximately 90 individual cases relating to human rights violations in Chechnya. Last summer the Court transmitted six cases to the Russian authorities. The rest are being processed.

(f) The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) undertook two visits to the North Caucasus region of the Russian Federation (26 February-4 March 2000; 20-27 April 2000). The delegation focused its attention on the treatment of persons who had been deprived of their liberty because they were suspected of having committed offences in Chechnya. The delegation visited police holding cells and pre-trial detention facilities in Chechnya, and also the Khankala military base near Grozny and detention and medical facilities in neighbouring republics of the Russian Federation. On 3 April 2000, the preliminary observations made by the CPT delegation after the first visit were published, at the request of the Russian authorities. The observations following the second visit have not been made public.

Organization for Security and Cooperation in Europe

35. Information provided by the Organization for Security and Cooperation in Europe is summarized below:

(a) It has not been possible to ensure the redeployment of the OSCE Assistance Group to Chechnya. At present, the international personnel of the Assistance Group still operates from its temporary location in Moscow. The Group has established an Office in the village of Znamenskoye (Nadterechny district) of Chechnya. This office is manned by local staff only. The Chairmanship of the OSCE intends to take appropriate steps with a view to ensuring early redeployment of the Assistance Group. Consultations with the Government of the Russian Federation are continuing in this regard.

(b) The OSCE Office of Democratic Institutions and Human Rights (ODIHR) provides technical assistance to the Office of the Special Representative of the President of the Russian Federation for the Promotion of Human and Civil Rights and Freedoms in the Chechen Republic. This includes: design of a computer database for management of complaints about human rights violations (project funded by the Government of Norway); staff training courses on human rights standards, basic human rights interviewing skills, reporting and case management (financially supported by the Government of Austria, the project is being implemented in

coordination with the Council of Europe). ODIHR has also on occasion directed inquiries to the Office of the Special Representative, based upon information received from NGOs, concerning detained or "disappeared" human rights defenders.

(c) In March 2000 an ODIHR delegation, accompanied by representatives of the Russian Federation Central Election Commission, visited the North Caucasus to assess the preparations in Chechnya for the Russian Federation presidential election. It concluded that standard conditions for elections and pre-electoral activities did not exist in Chechnya owing to the ongoing military campaign in parts of the territory and security conditions in others. ODIHR did not deploy observers to Chechnya on election day. ODIHR did not observe the by-election in August for the State Duma representative for Chechnya.

(d) ODIHR has also provided advice to the office of the Special Representative of the Secretary-General of the United Nations for children and armed conflict, drawing on its monitoring of the human rights situation in the Chechen Republic (the situation of children in armed conflict having been a priority for the OSCE under the Austrian chairmanship).

(e) ODIHR has sought to maintain contacts with relevant actors in the Russian Federation, notably Mr. Pavel Krasheninnikov, Chairman of the Public National Commission for Investigating Violations of the Law and Observance of Human Rights in the North Caucasus, Mr. Oleg Mironov, the Russian Federation Human Rights Commissioner, and leading Russian NGOs. Discussions with all of these interlocutors in 2000 included a proposal by ODIHR that Russian military and security forces in Chechnya be given basic human rights training, based on the training given to Russian forces deployed in international peacekeeping operations.

Office of the United Nations High Commissioner for Refugees

36. Information received from UNHCR is summarized below:

(a) Given the current situation in the North Caucasus, especially the slow progress in finding a political solution to the Chechen conflict, the overriding focus of all UNHCR activity in the region remains the preservation of a safe haven in Ingushetia for Chechen IDPs until such time that a conducive atmosphere is created for safe return to conflict affected areas. UNHCR maintains a cautious approach to humanitarian assistance within Chechnya, to avoid stimulating a false sense of security among the IDPs in an area where UNHCR is unable to provide even limited protection monitoring and cannot pretend to meet the massive basic assistance needs.

(b) In view of the fact that the changing security situation in the region poses difficulties for long-term planning, UNHCR maintains the position that its staff members, both national and international, should remain in Ingushetia. It continued providing basic life saving winterization support materials (windows and roofing materials) for some 750 families, as well as relief aid for Chechen IDPs inside Chechnya itself. However, no further substantive material assistance towards reconstruction of shelter is contemplated by UNHCR as this is considered to be the responsibility of the federal authorities.

(c) UNHCR is supporting government efforts to re-establish a civilian administration and the rule of law inside Chechnya through training initiatives for judges, prosecutors, lawyers and law enforcement officials. Such initiatives are taking place outside of Chechnya, so as not to suggest that the Republic is safe for return at this stage.

(d) UNHCR continues to work closely with numerous national NGOs in the Russian Federation, including those working inside Chechnya. The NGO "Memorial" undertakes legal monitoring and representation, while another partner NGO "Voice of the Mountains" provides mine awareness training in Chechnya and Ingushetia.

Office for the Coordination of Humanitarian Affairs

37. Information provided by OCHA is summarized below:

(a) The overwhelming majority of the work of OCHA during 2000 has focused on the humanitarian situation in the northern Caucasus, where the consequences of the crisis in the Republic of Chechnya have affected the lives of some 330,000 IDPs and up to 690,000 residents.

(b) The Government of the Russian Federation and the United Nations signed a memorandum of understanding on humanitarian action in the northern Caucasus on 16 August 2000. An inter-agency consolidated appeal for the northern Caucasus, for a total of US$ 44.9 million, was launched on 28-29 November 2000 and outlines United Nations humanitarian programmes for 2001.

(c) Regarding human rights, OCHA maintains active contacts with OHCHR and meets regularly with local offices of the OSCE and the Council of Europe.

World Health Organization

38. Information provided by WHO is summarized below:

(a) WHO assesses that the armed conflict in Chechnya created a complex emergency situation in the northern Caucasus, where the second most affected republic after Chechnya turned out to be Ingushetia due to a massive influx of IDPs.

(b) At present, in the Republic of Ingushetia, an estimated one third (38,000) of IDPs are living in camps or spontaneous settlements and the remaining 120,000 IDPs stay with host families. About three quarters of all the IDPs are children and women. Living conditions in the private sector, in camps and particularly in spontaneous settlements remain very difficult. The large number of IDPs in Ingushetia, despite massive assistance from the international community, still have problems with clean water supplies and hygienic conditions. Severely strained health services need to be further supported to ensure quality and equity of medical care. An estimated 170,000 civilians remain displaced within Chechnya itself. Much of the resident population in Chechnya lives in towns and cities damaged during the 1994-1996 conflict, many of which were further devastated, including medical facilities, during the period 1999-2000.

(c) The overall WHO objective outlined in the Consolidated Inter-Agency Appeal for the Northern Caucasus (Russian Federation), is to reduce the most preventable causes of morbidity and mortality, and to alleviate suffering from disability among IDPs and host families, as well as among affected populations in Chechnya itself.

(d) The continuously deteriorating security situation in the region threatens the civilian population, as well as the staff of humanitarian organizations working to alleviate the population's intense suffering. It also hampers the ability of United Nations organizations, including WHO, to be physically present in Chechnya. The current WHO emergency assistance programme for the North Caucasus, besides helping Chechen IDPs in the neighbouring republics of Ingushetia, North Ossetia and Dagestan, also includes, to the maximum possible extent, direct assistance to people inside the Republic of Chechnya.

(e) The present plans of WHO are for further involvement of local and international NGOs, Chechen health care structures and other possible partners within Chechnya in WHO emergency assistance activities.

International Committee of the Red Cross

39. Information received from the ICRC is summarized below:

(a) The President of the Russian Federation, Vladimir V. Putin, received the President of the ICRC, Dr. Jakob Kellenberger on 30 March 2000. President Putin expressed his agreement with the ICRC request to be granted access to all persons detained in relation with the hostilities in Chechnya, and while considering prevailing security constraints, confirmed unhindered access of ICRC humanitarian assistance to IDPs in Chechnya and neighbouring areas of the Russian Federation (see also paragraph 27 above). ICRC visits to places of detention in Chechnya and neighbouring areas of the Russian Federation began on 17 May 2000. Up to 31 December 2000, ICRC delegates carried out 59 visits to 29 places of detention in the Russian Federation, including Chechnya.

(b) A first set of confidential reports including ICRC observations and recommendations concerning conditions of detention and related issues was remitted to the Russian authorities by the ICRC in early December 2000.

(c) ICRC delegates enjoy functional, fruitful and frank working relations with all civilian and military authorities in the Russian Federation, including the Chechen Republic, which are relevant for its protection and assistance activities, among them, in particular, the Office of the Special Representative of the President of the Russian Federation for the Promotion of Human and Civil Rights and Freedoms in the Chechen Republic, Mr. Kalamanov.

Non-Governmental Organizations

40. Non-governmental organizations, both international and national, have closely followed the human rights situation in Chechnya. Regular reports are provided by, inter alia, Human Rights Watch, Amnesty International, Médecins du Monde, and the Memorial Society. In their reports, NGOs refer to continuing human rights violations in Chechnya, the need for a national

independent commission of inquiry, the practice of arbitrary detention, with many held incommunicado, and cases of summary execution and the indiscriminate killing of civilians. In a number of cases, sharp criticisms continue to be expressed on these matters.

41. The Memorial Society has sent numerous letters and reports to OHCHR during the past year regarding human rights in Chechnya. In addition to monitoring, the Memorial Society has opened legal assistance and monitoring offices in the Chechen cities of Grozny and Urus Martan. "Memorial" considers the main problems at the current time to be the indiscriminate killing of civilians and the disappearance of people who have been detained. Further, it complains about a lack of will on the part of the military and civilian procuracy to investigate and prosecute such allegations, even in cases where there is clear evidence.

42. Médecins du Monde reported recently to OHCHR that the humanitarian situation in Chechnya is worsening. They report that the aid offered is insufficient and that the civilian population is at great risk. The main concern of Médecins du Monde is to provide better access for humanitarian relief.

V. CONCLUSIONS

43. The detailed information provided by the Government of the Russian Federation is welcome, as is the expression of the Government's readiness to continue dialogue and cooperation with OHCHR. However, reports of continuing human rights violations in Chechnya, and criticisms of the authorities' response, give rise to serious concern. It is noteworthy that these reports come from a variety of sources, including intergovernmental organizations, Russian and international NGOs, and members of the State Duma. They indicate that further determined efforts are essential before it can be said that adequate conditions for the respect of human rights exist in Chechnya. Determined efforts need to be made to prevent unexplained disappearances and killings, and to combat corruption, abuses and harassment at checkpoints. Any steps taken to re-establish an effective judicial system should lead to full respect for the right of everybody to defend his/her rights before independent and impartial bodies, within procedures governed by due process of law.

44. In her approach to the issue of human rights in Chechnya, the High Commissioner has stressed the importance of a credible response from the Russian authorities commensurate with the scale of the allegations of serious human rights abuses. She has recommended an independent, wide-ranging inquiry as the most appropriate way to address concerns. It is noted that, while a number of constructive mechanisms have been put in place, none possesses all the attributes which would normally be associated with such an independent inquiry.

45. The High Commissioner notes as a matter of serious concern that there is a major gap between the large number of complaints submitted to various government agencies and bodies and the relatively small number of court proceedings. If the information available fully reflects the situation, further determined steps should be taken in order to ensure justice to victims of abuses. All allegations of human rights violations should be investigated in accordance with international human rights standards and appropriate action taken. Serious human rights violations should not be allowed to go unpunished and/or uncompensated.

46. Reports of serious human rights violations carried out by Chechen fighters against federal and local authorities and against civilians continue. The High Commissioner urges those responsible to cease such attacks, including kidnapping and hostage taking, and to observe international human rights and humanitarian law.

47. While the right of the Russian authorities to take appropriate measures to counter illegal activities is recognized, it is to be reiterated that all measures taken should be in full conformity with international human rights standards.

48. The Russian authorities advise that considerable funds have been allocated to improve the economic and social infrastructure in Chechnya. Nevertheless, the situation regarding the economic, social and cultural rights of the Chechen people and in the region remains a matter of serious concern. There has been no significant return of displaced persons. Humanitarian agencies continue to be severely restricted in their activities, primarily because of security reasons. This problem needs to be addressed. It is of paramount importance that effective and cooperative steps be taken by the federal and local authorities and the international community to provide adequate assistance to those in need in Chechnya and in the neighbouring region affected by the conflict.

49. The High Commissioner remains convinced that visits by the special mechanisms of the Commission on Human Rights could play a vital role in achieving progress in the promotion and protection of human rights in Chechnya and believes that it is important that all of the relevant invitations be extended. The High Commissioner reiterates her willingness to visit the region again if this could be of assistance. OHCHR is ready, in cooperation with partners, to expand its technical cooperation with the Government of the Russian Federation in order to assist in meeting needs in Chechnya. OHCHR is also ready to provide further assistance in regard to procedures for addressing human rights violations adequately and assistance in the reconciliation processes.

Notes

[1] Reports of the Special Rapporteur on torture (E/CN.4/2001/66), the Special Rapporteur on violence against women (E/CN.4/2001/73 and Add.1), the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2001/9 and Add.1), the Special Representative of the Secretary-General on internally displaced persons (E/CN.4/2001/5), the Special Representative of the Secretary-General on children and armed conflict (E/CN.4/2001/76).

[2] Mr. Kenneth Gluck was released on 3 February 2001.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report of the High Commissioner for Human Rights on the situation of human rights in East Timor

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I. INTRODUCTION

1. At the fifty-sixth session of the Commission on Human Rights, the Chairperson of the Commission issued a statement on the situation of human rights in East Timor, in which the High Commissioner was requested to submit an interim report to the General Assembly at its fifty-fifth session and to report to the Commission at its fifty-seventh session.

2. The High Commissioner submitted an interim report to the General Assembly at its fifty-fifth session (A/55/36), in which she noted that the Government of Indonesia had taken a number of concrete steps to investigate violations of human rights and international law and to bring those responsible to justice.

3. The present report is submitted pursuant to the request contained in the Chairperson's statement and provides information on developments since the issuance of the statement, in particular concerning the visit of the High Commissioner to East Timor, OHCHR technical cooperation with the United Nations Transitional Administration in East Timor (UNTAET) and activities undertaken by the Human Rights Unit of UNTAET.

II. ACTIVITIES OF OHCHR

A. Visit of the High Commissioner to East Timor

4. From 5 to 7 August 2000, the High Commissioner visited East Timor. During the visit, she met with a wide range of East Timorese and international personalities, including East Timorese political, religious and NGO leaders and senior representatives of the international community. The High Commissioner travelled to a number of locations in and around Dili, as well as Suai district, where she laid flowers at the site of a mass killing that took place in 1999, and delivered a keynote address at a workshop on human rights and the future of East Timor, held on 7 and 8 August 2000, in Dili.

5. The High Commissioner is particularly concerned about the unusually complex situation of the East Timorese refugees located in West Timor, the resolution of which requires engagement with a multiplicity of actors. The High Commissioner was also concerned to learn, during her visit to East Timor, of the number of missing East Timorese, presumed dead, whose fate is unknown.

6. Accordingly, in October 2000, the High Commissioner appointed a personal consultant for East Timor, Ms. Shanthi Dairiam, Director of the Malaysia-based International Women's Rights Action Watch (Asia Pacific). The personal consultant visited East Timor from 29 October to 15 November 2000 with a view to reporting to the High Commissioner on appropriate action to be taken by the High Commissioner to encourage the voluntary return of refugees to East Timor and on modalities for assisting in the establishment of a tracing commission for missing East Timorese persons. The visit was conducted in consultation with UNTAET and with the cooperation of relevant United Nations agencies, including the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Programme (UNDP), UNICEF, and other international organizations, including the International Committee of the Red Cross (ICRC) and the Asian Development Bank, and

local non-governmental organizations, including FOKUPERS, Yayasan Hak and the East Timor Human Rights Centre. The High Commissioner requested permission for the personal consultant to travel to West Timor to visit the refugee camps and to Jakarta to meet with government officials. This request was refused by the Indonesian authorities. The High Commissioner will keep the Commission updated on developments.

7. During the High Commissioner's visit to Indonesia from 22 to 23 November 2000, she met with representatives of the Government, including officials of the Ministry of Foreign Affairs and the Minister of Justice and Human Rights. The Attorney-General, Mr. Marzuki Darusman, informed the High Commissioner that the Indonesian House of Representatives (DPR) had adopted the Law on Human Rights Tribunals on 6 November 2000, pursuant to which ad hoc tribunals would be set up to hear cases relating to the East Timor-related human rights violations of 1999. (Earlier in the year, further to a request from the Attorney-General to the Secretary-General, OHCHR had provided technical advice on the draft law on human rights tribunals.) In this regard, the Attorney-General also informed the High Commissioner that indictments had been issued against 14 persons suspected of committing serious crimes during the violence in East Timor in 1999. The Attorney-General requested the High Commissioner to provide technical cooperation to his Office to support the investigation and prosecution of the human rights violations that took place in East Timor in 1999. The High Commissioner is waiting to receive formal confirmation from the Ministry of Foreign Affairs that this cooperation can proceed. If this is confirmed by the Government of Indonesia, it is intended that this cooperation will commence early in 2001.

B. OHCHR technical cooperation with UNTAET

8. The Office of the High Commissioner for Human Rights is currently finalizing a project of human rights technical cooperation with the Human Rights Unit of UNTAET for implementation in 2001. It is proposed that the project of technical cooperation will include:

(a) Human rights training to East Timorese and international Professional staff of the Human Rights Unit of UNTAET;

(b) Human rights training to the East Timorese police and the United Nations Civilian Police (CIVPOL); human rights training to East Timorese judges, prosecutors and public defenders;

(c) Promotion of human rights activities, including funding for the purchase, translation and dissemination of international human rights educational and training materials;

(d) Legal advice and assistance on particular issues, cases and draft legislation to ensure conformity with international human rights standards;

(e) Assistance with the establishment of a commission of truth, reception and reconciliation;

(f) Assistance with promoting ratification and adherence to the principal international human rights instruments.

OHCHR also provides substantive and administrative support to the Human Rights Unit, including dissemination of information on United Nations human rights machinery, advising on strategic planning, facilitation of the participation of representatives of UNTAET and East Timor in OHCHR regional activities and the recommendation of candidates for posts with the Human Rights Unit.

9. The Human Rights Unit of UNTAET participated in the meeting, organized by OHCHR, of the United Nations human rights field presences, held from 28 to 31 August 2000 in Geneva. Participants from field presences of OHCHR, the Department of Peace-keeping Operations and the Department of Political Affairs discussed the current and future role of United Nations human rights field presences. OHCHR invited the Chief of the Human Rights Unit, Mr. Patrick Burgess, to visit Geneva from 23 to 26 October 2000 for a briefing on the work of OHCHR and the United Nations human rights machinery. The Chief of the Human Rights Unit met with, inter alia, the Chiefs of the Activities and Programmes Branch and the Research and Right to Development Branch, and representatives of the Support Services Branch, Special Procedures, the Voluntary Fund for Technical Cooperation and the geographic teams.

III. ACTIVITIES OF THE HUMAN RIGHTS UNIT OF UNTAET

10. The information in this section has been provided by the Human Rights Unit of UNTAET.

A. Status of investigations and proposed prosecutions

11. As at 14 December 2000, 49 suspects are in pre-trial detention on suspicion of having committed serious crimes during 1999. The Serious Crimes Investigations Unit has reported that investigations into the following cases are being finalized:

(a) The attack on the Liquica Church compound on 6 April 1999;

(b) The attack on the house of Manuel Carrascalao on 17 April 1999;

(c) The attack on the Maliana police station compound on 8 September 1999;

(d) A series of killings from April to September 1999 in Los Palos, including of members of the clergy in September 1999, and the forcible transfer of the population;

(e) Gender related crimes involving arbitrary arrest, unlawful detention and sexual violence committed in Lolotoe, Bobonaro district, from May to September 1999.

12. As at 14 December 2000, 11 indictments have been issued in relation to the murder of nine persons in Los Palos in September 1999. More indictments are currently being drafted and are expected to be issued early in 2001. Trials before the Special Panel for Serious Crimes are expected to commence early in 2001. The Special Panel will be composed of both East Timorese and international judges.

13. A serious lack of resources, both human and material, has hampered the investigative work of the Serious Crimes Investigation Unit. This has prevented investigations being undertaken in connection with the overwhelming majority of crimes against humanity and war crimes committed during 1999. Because of the delay in or non-existence of investigations, a number of detainees, who had been held for months in pre-trial detention, have been released by the General Prosecutor on grounds of insufficient evidence.

14. The Human Rights Unit is working to ensure that there is no impunity for past serious crimes and is providing the Serious Crimes Investigation Unit with information on human rights violations that took place in the context of the popular consultation in 1999.

B. The truth and reconciliation process

15. Preparatory work to establish a commission for truth, reception and reconciliation is ongoing. This commission will not deal with serious crimes as defined in the UNTAET rules of criminal procedure, including murder, rape, war crimes and crimes against humanity, which occurred between January 1999 and 25 October 1999. These crimes are being prosecuted through the Serious Crimes Investigation Unit.

16. The Human Rights Unit is working with a steering committee made up of broad representation of the East Timorese community, and relevant UNTAET units and United Nations agencies to design the structure of the commission and to draft regulations. The Human Rights Unit has also worked closely with two international experts on the truth and reconciliation process in order to ensure that the East Timorese process has the opportunity to benefit from similar experiences. On 13 December 2000, the East Timorese Cabinet (composed of East Timorese and international representatives) adopted a proposal on the broad design of the commission. This proposal will now be brought to the National Commission, as well as to community representatives and NGOs, who will then vote on whether to adopt the proposal to establish the commission.

17. It is currently proposed that the commission will have two main functions: to seek the truth regarding the pattern and scope of human rights violations in the past; and to facilitate community acceptance of those who committed lesser crimes. In order to undertake the first task, the commission may organize public hearings at which victims speak of their experiences or may organize investigations to discover the truth about the violations in the past. In order to undertake the second task, the commission will develop a mechanism for community-based reconciliation, involving perpetrators of less serious crimes, who must be willing to confess and apologize for what they did, and agree to community service.

C. Capacity building

18. The Human Rights Unit is involved in ensuring that institutions developed in the transitional period leading towards a future independent East Timor are based on and ensure respect for human rights principles and standards. In this regard, the Human Rights Unit is involved in the development of the political institutions, the constitutional process, the institutions to protect human rights and an independent and strong civil society.

19. The Human Rights Unit and the East Timorese Jurists' Association held a human rights workshop from 7 to 8 August 2000 during the visit of the High Commissioner. Representatives of the National Council of Timorese Resistance (CNRT), political parties, the churches and human rights organizations, including district human rights organizations, attended the workshop. It resulted in a series of recommendations concerning the development of a human rights culture in East Timor and institutions to protect human rights. The recommendations were adopted unanimously by the CNRT Congress, in the form of a resolution, and have been disseminated broadly among NGOs, political parties and other relevant interlocutors.

1. The judicial system

20. Four district courts have been established, in Dili, Baucau, Oecussi and Suai districts. Nine judges have been appointed for Dili court, nine judges for Baucau court, one judge for Oecussi court and four judges for Suai court. Cases have, to date, been heard in Dili, Baucau and Oecussi courts. An appeals court, with one judge, has been established but it is yet to hear any cases. There is one Deputy General Prosecutor, five prosecutors for Dili court, three prosecutors for Baucau court, one prosecutor for Oecussi court and two prosecutors for Suai court. Nine public defenders serve the whole of East Timor.

21. Training of the judiciary is now under way. The Human Rights Unit is currently liaising with the Judicial Affairs Unit to ensure that the judiciary, including public defenders and prosecutors, receive appropriate human rights training.

22. There have been a number of problems relating to the limited material and human resources available to the new judiciary. These problems have been acknowledged by UNTAET and are in the process of being addressed. The Human Rights Unit remains concerned that the lack of resources has resulted in a delay in hearing cases, thus endangering the right to fair trial.

2. Pre-trial and detention

23. The Human Rights Unit, in particular through the district human rights officers, has monitored the progress of cases before the judiciary and has consulted with the Judicial Affairs Unit on ways to address problems that have emerged. The handling of juvenile offenders appears to have improved: where before the judiciary tended not to consider alternatives to pre-trial detention for juvenile offenders, this is now being addressed and juvenile offenders are increasingly being conditionally released. The Human Rights Unit has also monitored the provision of legal counsel to detainees and consulted with the Judicial Affairs Unit to ensure that, in each case, detainees are provided promptly with legal advice. The Human Rights Unit remains concerned that because of a lack of resources, there are limited safeguards for detainees, in particular immediately following arrest, given the limited number of public defenders.

24. Prisons are operating in Dili, Baucau and Ermera districts. The Human Rights Unit regularly visits Dili prison and is working with the Judicial Affairs Unit of UNTAET to develop a training programme for prison officials. There are currently believed to be three prisoners serving sentences. The remaining detainees are in pre-trial detention, approximately 100 in Dili, 9 in Baucau and 54 in Ermera.

3. The legislative process

25. The Human Rights Unit participates in the Legislation Committee of the Cabinet, which advises the Cabinet on the drafting of legislation and works to ensure that legislation adopted is in accordance with international human rights standards.

26. The Human Rights Unit has provided commentary on a number of regulations which affect human rights. Relevant regulations adopted are the Regulation on the Organization of the Courts of East Timor, the Amending Regulation on the Organization of the Courts of East Timor, the Regulation on the Establishment of Panels with Exclusive Jurisdiction over Serious Criminal Offences, the Regulation on the Organization of the Public Prosecution Service in East Timor, and the Rules of Criminal Procedure.

27. Other regulations which are yet to be adopted but which have been or are being commented upon include a draft regulation establishing an office of the Ombudsperson, a draft regulation on the registration of political parties in East Timor, a draft regulation on penal institutions, a draft regulation on the establishment of the Timor Lorosa'e police service, a draft regulation on employment standards and labour regulation, and a draft regulation on the establishment of a truth, reconciliation and reception commission.

28. UNTAET is planning to adopt regulations on the establishment of a defence force for East Timor, a law reform commission, a legal aid service and the administration of juvenile justice, and a press law.

4. Civil society

29. The Human Rights Unit has conducted a number of activities to support the strengthening of civil society, in particular human rights organizations. These activities include providing human rights training for emerging community-based groups and NGOs working on human rights, establishing a human rights library, developing a proposal to fund small-scale initiatives to promote human rights, in cooperation with the NGO Yayasan HAK, and assistance to, for instance, the ex-political prisoners association (comprised of more than 2,000 ex-political prisoners) to develop its programme.

30. The Human Rights Unit is also working with NGOs to improve consultation with representatives of civil society for policy decisions and legislative development, including through the development of a formal mechanism for early and comprehensive consultation throughout the decision-making process.

31. The Human Rights Unit provided support for the steering and organizing committee of the National Women's Congress, which was held from 14 to 17 June 2000 in Dili. The Congress was attended by more than 300 women from the 13 districts, and followed the holding of regional pre-congress preparatory meetings to finalize the agenda. The Human Rights Unit assisted in designing the methodology for the 10 sectoral workshops and assisted in the formulation of the issues and recommendations resulting from the workshops. The

recommendations of the Congress were particularly important as they were then channelled to the CNRT Congress, held later in the year, and have also been brought to the attention of relevant UNTAET departments.

32. The Human Rights Unit is continuing its programme of human rights education in Dili and the districts. Throughout the year, two-day human rights training workshops have been conducted in a number of districts, targeting human rights workers, community leaders, CNRT, women's organizations, youth groups and new police recruits. The workshops, organized jointly with East Timorese human rights NGOs, have covered an introduction to human rights, justice, reconciliation, dealing with trauma, and women's rights. Workshops have been held in Oecussi, Ermera, Alieu, Suai, Liquica and Manatuto districts and Atauro Island, Dili district. The Human Rights Unit, and in particular the district human rights officers, have provided ongoing support to newly emerging human rights organizations in the districts. Follow-up training, assistance in fund-raising, provision of resources and developing human rights programmes have been offered by the district human rights officers.

33. The Human Rights Unit facilitates regular meetings between East Timorese and international NGOs. From February 2000, fortnightly human rights coordination meetings have been held to discuss human rights issues of concern. The Human Rights Unit continues its involvement in the Children's Rights Working Group, established by the Unit and now facilitated by UNICEF and international and East Timorese NGOs. The Human Rights Unit provided assistance to a two-day workshop on children's rights, held in December 2000.

34. Together with East Timorese NGOs, the Human Rights Unit was active in organizing events to celebrate international Human Rights Day, on 10 December 2000. A number of public education activities were organized in Dili and in the districts, including human rights education in schools, video screenings of human rights films, radio interviews and debates, community mural painting and human rights concerts. In Dili, a seminar was held on 6 December 2000 on the theme of "Human rights and reconciliation" involving approximately 200 young people and speakers, including the CNRT President, Mr. Xanana Gusmao, Bishop Belo, and representatives of civil society. A public Human Rights Day "fair" was held in Dili on 10 December 2000, involving a poster and poetry competition for children, human rights information and music. The Human Rights Unit produced a poster for Human Rights Day, translated into four languages, which highlighted article 1 of the Universal Declaration of Human Rights.

35. Key human rights instruments, including the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Declaration on the Rights of Disabled Persons, have been translated into Tetum by UNICEF and the Human Rights Unit. The Human Rights Unit has widely disseminated these standards in Tetum, Portuguese, Bahasa Indonesia and English.

36. The Human Rights Unit is planning a series of human rights training workshops for early 2001, including human rights training for teachers, journalists and human rights workers. The Human Rights Unit is also preparing material focusing on those human rights fundamental to democracy, including freedom of expression and opinion, that will be used in human rights educational and promotional work in the lead up to the elections for a constituent assembly.

D. The protection of ethnic and religious minorities and other vulnerable groups

37. The Human Rights Unit, through its office in Dili and its district human rights officers, addresses the need for protection of particular vulnerable groups, the security of East Timorese refugees returning from West Timor and violence against women.

1. The protection of ethnic and religious minorities

38. Members of ethnic and religious minorities have reportedly been attacked, including harassment and physical assault, often because of their perceived links with Indonesia or pro-autonomy groups. In June 2000, three Protestant churches in Alieu district were burnt down because of allegations that the Church had connections with militia groups. There are approximately 240 members of the Muslim community living in the confines of the Dili mosque because of fears for their security if they return to their homes in Dili district. None of the group has successfully returned to their homes in Dili. In May 2000, the Human Rights Unit facilitated negotiations between some families living in the mosque and village leaders in order to arrange for the families to return to their homes. The negotiations failed, however, because the village leaders and village CNRT representatives claimed that, as the community was not ready to accept the return of the families, their security could not be guaranteed. The Human Rights Unit intends to renegotiate the return of members of the community to their homes, a situation now further complicated as their homes are illegally occupied. The Human Rights Unit will conduct a survey early in 2001 on the situation of ethnic and religious minorities in Dili district, where most of the ethnic and religious minorities live.

2. East Timorese refugees

39. There are between 80,000 and 100,000 East Timorese refugees located in West Timor. Following the evacuation of international humanitarian workers from West Timor after the 6 September 2000 killing of three UNHCHR staff in Atambua, West Timor, the Human Rights Unit continues to monitor the situation of the East Timorese refugees in West Timor, through NGO networks, media monitoring and cooperation with UNHCR.

40. The Human Rights Unit and, in particular, its district human rights officers deployed in the 13 districts of East Timor have played an active role both in preparations for the return of the East Timorese refugees from West Timor, including negotiations prior to return concerning their reintegration, and in the subsequent monitoring of the returnees' security. While the number of incidents of violence against returnees has been relatively low, there continue to be reports of incidents where returnees suspected of supporting pro-autonomy groups or participating in violent crimes during 1999 have been intimidated, threatened, kidnapped, arbitrarily detained and beaten.

3. Human rights violations against women

41. With technical assistance from the Jesuit Relief Services (JRS), the Human Rights Unit has developed a database (in English and Bahasa Indonesia) on gender-based violations, for use by local NGOs. FOKUPERS, a leading women's NGO, has been able to enter its data from

interviews with over 200 women witnesses into the database. The Human Rights Unit is working together with FOKUPERS and a number of self-help groups in Bobanaro and Covalima districts on a video documentation project to produce a short video on gender-based violence, including the violence in 1999 and, also, contemporary cases.

42. The Human Rights Unit is working on a number of gender-related issues, including providing support to women who were victims of human rights violations in organizing themselves into self-help groups so as to be better able to meet their requirements. These organizations have addressed economic needs and assisted in advocacy skills building relating to past human rights violations. Organizations which have benefited from the support of the Human Rights Unit include Materestu in Covalima district, Nove-nove in Maliana and Moris Foun, both in Bobonaro district, and Ratelaek in Liquica district.

43. There are at least 60 documented cases of rape which took place in 1999. Following the delay in investigating these cases, the Human Rights Unit is cooperating with local NGOs and the Civilian Police component of UNTAET to facilitate these investigations. It is hoped that more resources will be allocated to these investigations in the future

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Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report of the High Commissioner for Human Rights on the situation of human rights in East Timor

Corrigendum

Paragraph 7, line 10

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Fifty-seventh session
Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the human rights situation in the Republic of Equatorial Guinea submitted by the Special Representative of the Commission, Mr. Gustavo Gallón, pursuant to Commission resolution 2000/19

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Executive Summary

In its resolution 2000/19, the Commission on Human Rights decided to renew the mandate of the Special Representative for Equatorial Guinea, Mr. Gustavo Gallón (Colombia), and entrust him with a dual task, to monitor the human rights situation in the country and to monitor any technical assistance which might be provided. Equatorial Guinea has been monitored by the Commission since 1979.

The Government of Equatorial Guinea did not give the Special Representative leave to visit the country in accordance with his mandate during the year 2000, following the adoption, without a vote and with the Government's consent, of Commission resolution 2000/19. The Special Representative received no reply to several requests he sent to the Government for information concerning the human rights situation in the country. In order to clarify and update the information for his report, in November 2000 the Special Representative visited Spain (where approximately 10 per cent of the citizens of Equatorial Guinea live) and met with individuals and organizations having ties to the country, including victims of human rights violations.

The human rights situation in the country did not improve during 2000. The Special Representative's conclusions in his previous report to the Commission remain applicable in their entirety. There continues to be no sustained rule of law in Equatorial Guinea; rather, power is concentrated in the hands of the executive, which leads to continued arbitrary detention and torture designed to prevent actual or suspected coup d'état attempts, or in any case to prevent political parties or ethnic groups opposing the governing group from gaining power. In lieu of an independent judiciary working to impede or redress such practices, the military and the governing party exercise various de facto and de jure powers to control the population, 65 per cent of which lacks the means of satisfying its basic needs. There is no regular publication of laws in an official gazette nor daily newspaper through which freedom of opinion may be exercised, and human rights organizations are not authorized to function. There are no trade unions, with the exception of a farmers' association that appears to have been established in 2000. Women and children are the most seriously affected by discrimination in the country, especially (but not only) with regard to education and health.

The situation could be improved with a modicum of political will and with appropriate distribution of the increasing economic resources which Equatorial Guinea has been receiving since 1995 from its extensive oil well operations. To this end, the support of the international community, and the Commission in particular, are of vital importance, to ensure the success of the efforts made over the past 21 years, during which the situation has been monitored, technical support provided and basic recommendations formulated, most of which have yet to be given effect. Also of vital importance is cooperation from the multinational corporations which are drawing enormous wealth from the territory.

Among several events which occurred in Equatorial Guinea during 2000, one case eloquently sums up the situation described above. A Spanish citizen of Equatorial Guinean origin, who travelled to the country in the middle of the year to visit his family, was held in incommunicado detention for 60 days in the country's main prison, where he was subjected to torture, and where he witnessed similar treatment meted out to five other prisoners who are still

in detention. The individual concerned, Mr. Augusto-Mba Sa Oyana, was arrested by the authorities, without a judicial warrant, on 17 June 2000. He was taken from the plane during a stopover at the airport in the capital, and incarcerated in Black Beach prison, situated within the presidential compound, where he was tortured in an attempt to make him admit participation in an alleged insurrection plan. For more than 10 days the authorities concealed his whereabouts, even to the diplomatic representatives of Spain, which constitutes an act of enforced disappearance. He was stripped of his belongings, totalling 20 million CFA francs (approximately US$ 28,700), were taken from him by a senior official of the State Security Service, who demanded the money supposedly to hire a special plane that would take him back to Spain, a trip which never took place. Mr. Sa Oyana managed to escape prison on 18 August 2000, through a hole in the ceiling of his cell, and reach the diplomatic mission of Spain, where he eventually obtained assistance in leaving the country. His prison companions, Equatorial Guinea nationals, would have gained little by escaping, as they would simply have been rearrested, not being entitled to diplomatic assistance to travel abroad. Four of them are activists in the Fuerza Demócrata Republicana (FDR) party and were arrested just before the municipal elections held in May 2000. The fifth prisoner being held incommunicado (the circumstances under which Mr. Sa Oyana met him while in prison) is a person convicted of homicide. According to that prisoner, in late 1999 the Government attempted to hire him to assassinate another individual, a person who was Minister of Foreign Affairs until a few years ago, who succeeded in fleeing the country while the price to be paid for the murder contract was being negotiated. No judicial authority intervened at any time during Mr. Sa Oyana's imprisonment to guarantee his rights to freedom, integrity of the person, food (he received no food from the prison authorities during this period), health (sanitary conditions in the prison were appalling) or defence (he was never brought before a judge), among others. Mr. Sa Oyana has no reason to believe that, were he to lodge a complaint with the courts of Equatorial Guinea for the violations suffered, the necessary resources and independence would exist to produce a fair judicial decision against his captors and torturers, or against the State, requiring it to provide compensation for the rights violated.

Situations similar to that suffered by Mr. Sa Oyana and by the five other persons who were and are still being held in Black Beach prison have been described repeatedly in previous reports submitted to the Commission by this Special Representative and by his distinguished predecessors over the past 21 years. There is no doubt that the situation is serious, persistent and systematic, in the face of which the Commission cannot fail to act.

The conclusions and recommendations concerning technical assistance to Equatorial Guinea put forward by the Special Representative in the report he submitted in 2000 also remain applicable. Technical assistance to Equatorial Guinea may be useful for supporting the country as it moves towards democracy and respect for human rights, provided that it is preceded by the adoption of a specific programme. The first step in such a programme would be the implementation of the recommendations which do not require technical assistance, and which have been formulated time and again over the past 21 years. The decisions required are simple ones, such as the effective prohibition of arbitrary detentions, the elimination of permits to leave the country and the ratification of international treaties such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of All Forms of Racial Discrimination. Once these and other similar recommendations have been implemented, the Government might agree with the international

community on a timetable and a description of the cooperation activities it needs to give effect, through technical assistance, to the remaining recommendations, relating in particular to the independence of the judiciary, the codification of laws and political pluralism. The respective agreement or agreements should be based on the recommendations and decisions repeatedly adopted by the Commission, and should be implemented, with respect for the autonomy of each cooperating agency, under the supervision of the Commission, through its Special Representative and through the Office of the United Nations High Commissioner for Human Rights.

In 2000 technical assistance agreements between the Government of Equatorial Guinea and the European Commission, the United Nations Development Programme (UNDP) and the Government of Spain were concluded or were in their initial stages; all have been designed to focus in some way on the recommendations adopted by the Commission in resolution 2000/19. In order for this approach to be as timely, complete and effective as possible, it would be desirable that, prior to the implementation of the agreements, the fulfilment by the Government of Equatorial Guinea of the recommendations which do not require technical assistance should be verified.

Consequently, it is recommended that the Commission should renew the mandate of the Special Representative to monitor the situation of human rights in Equatorial Guinea and to monitor any technical assistance provided. The Commission should take additional precautionary measures to ensure that the authorities of Equatorial Guinea cooperate with the mandate of the Special Representative and fulfil the recommendations formulated by the Commission over the past two decades, to enable the country to overcome its serious human rights crisis.

Introduction

1. Equatorial Guinea has been under scrutiny and monitoring by the Commission on Human Rights for longer than any other country. After beginning in 1976 the confidential investigation provided for in Economic and Social Council resolution 1503 (XLVIII), the Commission decided in 1979 to consider the case of Equatorial Guinea in public meetings as a situation of serious, persistent and systematic violations of human rights, and has maintained that decision to date. To that end, it appointed Mr. Fernando Volio Jiménez (Costa Rica) Independent Expert and renewed his mandate each year through 1992. In his last report, submitted to the Commission in 1993, Mr. Volio expressed concern at the basic lack of change in the human rights situation in the country. In 1993 a new Special Rapporteur was appointed, Mr. Alejandro Artucio Rodríguez (Uruguay), whose mandate was renewed each year for six years. In his last report, submitted to the Commission in 1999, Mr. Artucio recommended that the Commission should not relax its monitoring of the situation, given the fragility of the population's legal protection against practices that violate human rights, such as torture, arbitrary detention and limitations on the parties' political action. In resolution 1999/19, the Commission endorsed that recommendation and decided to continue to keep the situation under review through a special representative entrusted with the task of monitoring the human rights situation, and, in addition, of formulating recommendations on the implementation of technical assistance to Equatorial Guinea. Mr. Gustavo Gallón Giraldo (Colombia) was appointed as the new Special Representative in August 1999.

2. The Special Representative submitted his first report to the fifty-sixth session of the Commission (E/CN.4/2000/40), after visiting Equatorial Guinea in November 1999. In it he stated that the situation in Equatorial Guinea was one of systematic violation of human rights together with impunity, which had been continuing for over three decades and even dated back to the colonial era, before the country obtained independence from Spain in 1968, when its first president, Fernando Macías, was elected. President Macías' regime promptly became a dictatorship and he was overthrown in 1979 by his nephew, then a lieutenant-colonel and Minister of Defence and now President, Teodoro Obiang Nguema. The Special Representative noted that, although some institutional changes have been introduced since then (such as the existence of political parties other than the governing party, since 1992, and the establishment of a Constitutional Court), power is concentrated in the hands of the executive, which controls even the most minor Government posts and many in the private sector. Thus the possibility of a State under the rule of law is neutralized by what is actually a single-party regime functioning with the support of a military whose powers are no different from those of the police and which even exercises jurisdiction over civilians.

3. The Special Representative warned that such circumstances were unconducive to overcoming extreme poverty (which affects 65 per cent of the population) despite extensive oil well operations in the country since 1995. If such resources are marshalled within a context of respect for human rights, the minimum levels of education and health which are lacking today, and which particularly affect children, could rapidly be reached. Otherwise, the Special Representative is of the view that the unequal enjoyment of recently-acquired wealth will continue to aggravate such phenomena as child prostitution and, consequently, the already serious discrimination against women in Equatorial Guinea society.

4. The Special Representative's comments after his first visit to the country were essentially the same as those which had been stated before the Commission over the previous 20 years by the former Special Rapporteurs and the Independent Expert appointed by the Commission every year without interruption since 1979. Consequently, the recommendations of the Special Representative in the report which he submitted in 2000 were also substantially the same. However, the Special Representative also recommended that those recommendations should be arranged within a specific programme that would distinguish between those recommendations which did not require technical assistance for their implementation and those which did, so that the former might be put into practice by the Government rapidly, while the latter might be implemented as part of specific cooperation programmes coordinated under Commission supervision. The Special Representative has accordingly fulfilled the mandate entrusted to him in Commission resolution 1999/19, under which, in addition to monitoring the human rights situation in the country, he should submit to the Commission a report that would include recommendations on the implementation of technical assistance programmes to Equatorial Guinea.

5. In its resolution 2000/19, the Commission welcomed the Special Representative's recommendations and renewed, strengthened and expanded his mandate, reiterating its request that he monitor the situation of human rights in Equatorial Guinea and report to it at its fifty-seventh session (para. 11), and also requesting him "to verify, on behalf of the Commission, that the technical assistance provided to Equatorial Guinea supports its national plan of action on human rights, based on the recommendations made since 1979 and reiterated in his report" (para. 12).

6. In order to prepare his second report to the Commission, the Special Representative made three written requests to the Government of Equatorial Guinea for leave to visit the country in 2000, but received no reply from the authorities to his letters. The first of the letters was sent on 15 May 2000 to the Minister for Foreign Affairs and the Minister of Justice and Worship, proposing a visit to the country from 11 to 25 June 2000. Having received no reply, he sent a second letter on 7 June 2000 reiterating his request and proposing the period from 6 to 20 August 2000 for the visit. Having received no reply to the second letter, the Special Representative sent a third communication to the Government on 3 July 2000, reiterating his proposal for a visit from 6 to 20 August 2000 and respectfully requesting the Government to reply to his application for leave to visit, so that he might make arrangements for the activities required for the fulfilment of his mandate. The Special Representative received no reply from the Government to his third request.

7. The Special Representative learned unofficially that the Minister of Justice and Worship (who is responsible for human rights issues in Equatorial Guinea) had sent the Minister for Foreign Affairs an internal "information note" on 9 June 2000 stating that he found it "inappropriate that a visit [by the Special Representative of the Commission on Human Rights] should take place before the Government of Equatorial Guinea and the Office of the United Nations High Commissioner for Human Rights [had] drawn up the new programme of cooperation and technical assistance (...)". A copy of this internal communication was sent to the UNDP office in Malabo, which was how the Special Representative learned of it. Although the above-mentioned "information note" was not an official reply to his letters, the Special Representative deemed it appropriate to become acquainted with the note and to invite the

Minister for Foreign Affairs and the Minister of Justice and Worship to reconsider the position expressed in it. To that end he informed them, with due respect, that the two aspects of the mandate entrusted to him by the Commission are complementary, that their fulfilment is in no way contingent on the existence of a technical assistance agreement between the Government of Equatorial Guinea and United Nations bodies, and that his visit to the country is not viewed as a prerequisite for a technical assistance agreement. He stated as much in his letter of 3 July 2000 (annex), in which he respectfully requested the Government of Equatorial Guinea for leave to visit the country in pursuance of the commitments made by the Government when Commission resolution 2000/19 was adopted, with the consent of the Government of Equatorial Guinea and without a vote.

8. In a fax sent to the Minister of Justice and Worship on 18 July 2000, the Office of the High Commissioner, which was also unofficially informed of the above-mentioned "information note", reminded the Government of Equatorial Guinea that any technical assistance activities were subject to the principles of transparency and complementarity as established by the 1993 Vienna World Conference on Human Rights and reiterated in the seventh preambular paragraph of Commission resolution 2000/19. The Government was also informed, in the 18 July fax, that the Office of the High Commissioner was fully prepared to provide technical assistance to Equatorial Guinea, and that its collaboration with Commission mechanisms was required in order that concrete cooperation initiatives might be developed.

9. Given the Government's failure to reply to his repeated applications for leave to visit the country, the Special Representative sent the Chairman of the Commission a letter dated 16 August (on the occasion of an unofficial meeting of the Commission on Human Rights on 15 September 2000), informing him, and asking him to inform the members of the Commission, of the obstacles which he was encountering in discharging his mandate.

10. With a view to collecting the information which the Government considers relevant for use in the preparation of his report through means other than the banned visit to the country, the Special Representative sent a letter dated 10 October 2000 to the Minister for Foreign Affairs and the Minister of Justice and Worship, asking them to inform him of any administrative, legislative or judicial measures taken or proposed by the Government of Equatorial Guinea in connection with the recommendations contained in resolution 2000/19. At the time this report was drafted, in December 2000, the Government had not replied to his request.

11. At various times during 2000, the Special Representative wrote to the authorities of Equatorial Guinea to request information about different cases, and received no replies from the Government. On 14 March he sent the Minister of Justice a letter requesting information on the reasons for the transfer of 41 detainees belonging to the Bubi ethnic group from their prison on the island of Bioko to a prison on the continent, far from their families. On 14 June he sent another letter asking to know the official results of the municipal elections held on 28 May 2000, the situation of four militants from the Fuerza Demócrata Republicana (FDR) party who had been detained since May 2000 and the situation of the above-mentioned detainees of the Bubi ethnic group. On 4 August he sent another letter to ascertain the whereabouts and conditions of detention of Mr. Augusto-Mba Sa Oyana, who had been abducted by government authorities in the Malabo airport on 17 June 2000.

12. Not having received leave to visit the country, the Special Representative decided to carry out a mission to Spain (where approximately 10 per cent of Equatorial Guinean citizens live) in order to collect information, through interviews of or testimony received from persons having ties to Equatorial Guinea, including victims or witnesses of human rights violations, representatives of Equatorial Guinean political parties and representatives of NGOs and community associations. The visit took place from 20 to 25 November 2000, in Madrid. The Special Representative also met with representatives of the Ministry of Foreign Affairs and the Spanish Agency for International Cooperation.

13. After returning from his mission to Spain, the Special Representative again wrote to the Minister for Foreign Affairs and Minister of Justice and Worship, on 4 December 2000, requesting information on some situations which had come to his attention, in order to obtain the point of view of the Equatorial Guinea authorities and include it in his report. At the time this report was drafted, the Government had not replied to his request.

I. SITUATION OF CIVIL AND POLITICAL RIGHTS

A. Right to vote and to be elected

14. Municipal elections were held on 28 May 2000. By law they should have taken place towards the end of 1999, but in October 1999 the Government signed an agreement with the political parties to hold them in the first quarter of 2000. They were eventually held in the second quarter of that year.

15. In the previous municipal elections held in 1995 opposition parties banded together to form the so-called Joint Opposition Platform (POC) which for the first time managed to win 9 mayorships out of a total of 27. Since then, the opposition parties have been complaining about attempts by the governing party to recover the nine mayorships by devious means; it is said that six of the nine mayors were bribed or pressured to join the ranks of the government party, the Democratic Party of Equatorial Guinea (PDGE). During his visit to the country in 1999, the Special Representative was informed that only the mayors of Malabo, Rebola and Mbini were still holding on to their posts as representatives of the opposition and were experiencing persistent harassment both in their work and in their private lives.

16. In view of what had happened, representatives of the opposition parties predicted that the Government would do everything possible to ensure that, in contrast to its performance in the 1995 elections, the opposition would not win any mayorships in the 2000 elections. Having assessed the situation, the three recognized opposition parties, Convergencia para la Democracia Social (CPDS), Unión Popular (UP) and Alianza Democrática y Progresista (ADP), decided that they would not participate in the elections.

17. The Government failed to transmit to the Special Representative official information concerning the election results despite the formal request he made in his letter of 14 June 2000. Nor does the Special Representative have any knowledge of the official results of the elections being announced in any publication.

18. According to the newspapers, the elections were characterized by a high abstention rate. Of the 244 town councillor posts vacant, only 14 were assigned to the opposition parties that participated in the elections and none of these 14 went to an opposition candidate standing for the post of mayor. The electoral campaign was characterized by the omnipresence of the PDGE party, voting in public and the intimidating presence of the armed forces. Only a few representatives of the International Organization of la Francophonie (OIF), the African, Caribbean and Pacific group of States (ACP States) and the United States consulting firm Institute for Democratic Strategies (advisor to the Government) were present as observers.

19. In his previous report (E/CN.4/2000/40, para. 145), the Special Representative had urged the Government to take the necessary steps as soon as possible to have an electoral assistance mission sent to the country by the United Nations or the European Union in order to prove to the international community that it was firmly committed to a genuine multi-party system. This recommendation was endorsed by the Commission which, in its resolution 2000/19, encouraged "the Government of Equatorial Guinea to invite to the country an electoral observer mission of the United Nations, and/or of impartial observers for the [...] municipal elections" (para. 10).

20. On 29 April, the Ministry of Foreign Affairs, in a letter to the United Nations Secretary-General, extended an invitation to an electoral observer mission comprising representatives of the Commission on Human Rights, to be present during the elections. As the UNDP Resident Representative in Malabo had informed the Minister in a letter dated 4 February 2000, technical and financial assistance in connection with the elections was made conditional on a mission to "evaluate the conditions in which the electoral process would take place as well as the existence of prior agreement on United Nations involvement throughout the electoral process and the unrestricted participation of candidates of all political parties". The United Nations Electoral Assistance Division informed the authorities of Equatorial Guinea that the request should be submitted at least three months in advance so that the electoral observer mission could be properly prepared.

21. On 5 May 2000, the Special Representative sent a letter to the Minister of Justice informing him that the Governments of Argentina and Chile had expressed their willingness to send electoral observers. On 15 May 2000, the Minister of Justice informed the Special Representative that the Government of Equatorial Guinea had contacted the Governments of Argentina and Chile. However, for unknown reasons, observers from these countries were not present on election day.

22. According to credible sources, the following irregularities, among others, were noted: the names of persons who were not registered appeared on the electoral rolls; voting was public at a large number of polling stations; many polling stations were supervised by soldiers on duty; several opposition party militants were detained without a warrant; and the allocation of seats was of an arbitrary nature in that certain parties were given seats without having obtained 10 per cent of the vote as required under the electoral law.

23. Several parties complained that the Government not only harassed militants in their political activities and private life but also interfered in the internal organization of parties in order to create discord. For example, the traditional leadership of UP claimed that the Government had financed an illegal convention to bring in new leaders. They also alleged that,

although UP had decided that none of its members would sit in Parliament (in which it received 4 seats out of a total of 80 in the 1999 legislative elections that the party considered to be fraudulent), the Government co-opted four former members of the party to occupy seats in the House of Representatives of the People in a way that made them out to be representatives of the opposition. These complaints should be looked into since they are similar to those made by other political parties such as ADP and the Acción Popular (AP) party, whose independent leaders were allegedly replaced by persons who have joined the government party, PDGE.

24. The Fuerza Demócrata Repúblicana (FDR) party, which has been seeking recognition since 1995, is still awaiting a reply to its application. In his public statements, the President of the Republic is said to have stated that "Legalizing it would be to invite lung cancer". FDR defines itself as a centre-right party comprising persons who belonged to the former regime of President Macías or the present regime of President Obiang, many of whom are related to one or the other but who say that they are in favour of the country's democratization.

25. Other parties also lack the legal authorization they require in order to function. No reply has apparently been received to the application for legalization submitted by the Independent Democratic and Social Party (PIDS), headed by the lawyer José Oló Obono referred to in the Special Representative's previous report. The decision declaring the Progress Party (PP) illegal under a criminal sentence imposed on its leader in 1997 for having attempted to prepare a coup d'état has been upheld, despite the fact that it has been established time and time again that this act was carried out in a personal capacity and not by a party. The Movement for the Self-Determination of the Island of Bioko (MAIB), which claims to represent the interests of the Bubi ethnic group, is still considered illegal and non-existent by the Government on the grounds that electoral legislation bans political parties of an ethnic character.

26. Political persecution in Equatorial Guinea is not limited to the confines of the country. Mr. Aquilino Nguema Ona Nchama, Secretary-General of the Unión para la Democracia y el Desarrollo Social (UDS) party, who had the status of political refugee in Gabon under the auspices of the Office of the United Nations High Commissioner for Refugees (UNHCR) personally informed the Special Representative that he was abducted on 18 May 2000 by three members of the Gabonese security forces. The abduction allegedly took place on the basis of an agreement with the authorities of Equatorial Guinea, who paid 200 million CFA francs (some US$ 287,000) for the operation. According to him, his transfer to Malabo was prevented by the intervention of the Spanish Embassy and Agence France-Presse. He was detained without a warrant for two days in the records office, not allowed to receive any visits, and the Gabonese authorities decided to expel him from the country on suspicion of engaging in subversive activities and for breaches of the peace. Mr. Ona Nchama is a teacher and had founded a college, of which he was Director, in Libreville (capital of Gabon) to provide schooling in Spanish to children from Equatorial Guinea living in Gabon. He had more than 900 pupils. Having sought refuge in Madrid following his expulsion from Gabon, he was obliged to train as an electrician in order to make a living. His family, which is still in Gabon, consists of his wife Adèle Nkene (33 years of age), his children Juliana, Romaricio and Begoña Nguema (15, 13 and 6 years of age respectively) and his younger brother Martín Nnandong Nguema (18 years of age), who are completing the formalities required for entry into Spain.

27. Mr. Ona Nchama was also President of the Collective of Equatoguinean Political Refugees in Gabon. On 18 January 1998 an attempt was made on his life, which he attributes to members of Equatorial Guinea's secret police. As President of the Collective he had reported various assassination or abduction attempts - some of which were successful - made in previous years against Equatorial Guinean dissidents outside the country. During 2000, in addition to his own situation, he also reported an attempt to abduct Mr. Angel Nguema Ndje (former Director-General of the National Security Agency) in Bitam, a town on the frontier between Equatorial Guinea and northern Gabon. The operation was allegedly carried out by a mayoress from Equatorial Guinea.

28. During his stay in Madrid, the Special Representative met with members of several opposition parties, both recognized and not recognized by the Government of Equatorial Guinea. A group of political parties and social organizations comprising the Alianza Nacional para la Restauración Democrática (ANRD), CPDS, FDR, Foro para la Democracia en Guinea Ecuatorial (FODEGE), PP, UP, UDDS, Parido de la Coalición Democrática (PCD), MAIB, Unión de Demócratas Independientes (UDI), Asociación de los Refugiados Guineanos en España (AREGE) and Plataforma para la Paz y los Derechos Humanos en Guinea Ecuatorial (PDHGE), requested the Special Representative, on behalf of the people of the Republic of Equatorial Guinea exiled or resident in Spain, to use his good offices as a mediator between the opposition and the President of Equatorial Guinea in order to promote a democratic process based on respect for the will of the people of Equatorial Guinea. The text of the petition formulated by this group is as follows:

> "CONSIDERING that successive programmes for the establishment of respect for human rights in Equatorial Guinea have resulted in deadlock, as a direct result of the stagnation in the process of transition to a democratic system begun in 1991,
>
> "NOTING the repeated failure of Teodoro Obiang Nguema and his Government to carry out democratization programmes submitted to the international community as well as to implement agreements concluded with the democratic opposition,
>
> BEARING IN MIND the need to change the present regime in the near future in order to initiate a democratic transition process and to establish in Equatorial Guinea a DEMOCRATIC AND SOCIAL STATE SUBJECT TO THE RULE OF LAW, in agreement with all the country's political and ethnic forces and in conformity with their wishes freely expressed in a referendum,
>
> MINDFUL also of the delicate political stage that the country has entered, in the context of which the opposition is prepared, as a credible alternative, to propose a practical formula that would facilitate the implementation of a peaceful and ordered transition process in Equatorial Guinea,
>
> REQUESTS the mediation of the international community (rapporteur) in promoting in the near future

NEGOTIATIONS between Teodoro Obiang Nguema and his Government and the opposition at a conference to be held in a third country, with the appointment of an INTERNATIONAL FOLLOW-UP COMMITTEE in order to achieve agreements on the following:

1. Declaration of a general amnesty, the release of all political prisoners and the return of all exiles.

2. Measures to guarantee the exercise of the right to freedom of expression and movement, political rights and the maintenance of law and order.

3. Recognition of all political parties which, for some reason or another, have not yet been legalized.

4. Formation by consensus of a government of national unity for the transition period lasting up to one year.

5. Establishment of a constituent assembly to draw up a new constitution.

6. Preparation of new electoral rolls.

7. Organization of a referendum on the new constitution and general elections to form the new democratic Government.

8. Transfer of power to the new democratically-elected Government.

All the agreements reached on each and every one of the above points should be supported and monitored by the international community in general and by the Kingdom of Spain in particular".

29. The Special Representative considers that this proposal should be brought to the attention of the Equatorial Guinea authorities and the international community, as represented in the Commission on Human Rights, and respectfully urges them to take into consideration the invitation it contains to participate in a dialogue and the desirability of suitable international follow-up action which would facilitate its implementation and lead to a considerable improvement in the human rights situation in the country.

B. Rights to equality and self-determination (racial discrimination)

30. In his previous report, the Special Representative expressed his concern, as his distinguished predecessors had done, about the discrimination practised by the Fang, who are the majority ethnic group in the country, against the Bubi who are the majority ethnic group on the island of Bioko (where the capital is located), although they are a minority in the rest of the territory. Like previous rapporteurs, he also urged the Government to ratify the International Convention on the Elimination of All Forms of Racial Discrimination and to bear in mind

general recommendation XXI (48), adopted in 1996 by the Committee on the Elimination of Racial Discrimination, so that the Bubi people's right to self-determination could be recognized without thereby renouncing the right to the unity and sovereignty of the State. The Special Representative has received no information from the Government on this subject.

31. On the contrary, he continues to receive information from representatives of the Bubi people about the persistence of various forms of discrimination such as military roadblocks that hamper their movement and prevent access to markets, and the refusal to recognize the existence of MAIB, which is the political voice of the Bubis.

32. The Special Representative also received complaints of Government discrimination against other ethnic groups in Equatorial Guinea such as the Ndowes and Bissios (who live along the coast of Río Muni province), the Bengas (from the islands of Corisco and Elobeyes), the Annoboneses (from the island of Annobón whose isolation is due in part to the fact that this island is 500 kilometres by sea from the capital) and the so-called Criollos or Fernandinos (descendants of immigrants from Benin, Cameroon, Nigeria and Sierra Leone among other neighbouring countries).

33. The generally peaceful nature of the various ethnic groups in Equatorial Guinea explains why the discrimination they experience has not given rise to large-scale violent conflicts. Yet it is not inconceivable that failure to do something about this discrimination might well result in such conflicts at any time. On the other hand, the adoption of measures to turn the country's multi-ethnic composition to advantage, and to accord political treatment more in line with its ethnic diversity on the basis of respect for and protection of human rights, would certainly contribute to the advancement of the country's society. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to be held in 2001 will offer a favourable opportunity to do so.

C. Right of association (and protection of human rights defenders)

34. The Commission, in its resolution 2000/19, decided to urge the Government of Equatorial Guinea to authorize, "without any undue restriction, the public registration and freedom of activity of non-governmental organizations, in the field of human rights and social affairs" (para. 8).

35. The Special Representative has received no information about any positive developments as regards enjoyment of the right of association. Act No. 1 of 1999 which regulates the activities of the NGOs (and which does not regard the protection and promotion of human rights as activities in which they may engage), continues in force without change, despite the recommendations made on the subject by the Special Representative in his previous report (paras. 29 and 139) and reaffirmed by the Commission in its resolution 2000/19 (paras. 2 (a) and 8). The authorities of Equatorial Guinea have not informed him of any measures taken to legalize these organizations, some of which submitted applications for authorization as long ago as 1994.

36. In his previous report, the Special Representative indicated that there were no trade unions in Equatorial Guinea, despite the fact that their activities were in theory regulated by Act No. 12 of 1992. According to the newspaper La Gaceta (No. 46; year IV, 2000) the Ministry of Labour and Social Security in 2000 granted authorization to the small livestock breeders' trade union (OSPA) which might possibly be the first trade union permitted in the country.

D. Freedom of the press and right to information

37. As the Special Representative indicated in his previous report, there is no daily, weekly or fortnightly press organ in Equatorial Guinea, and the normal information media are the radio or television, which are controlled by the Government (E/CN.4/2000/40, para. 32).

38. The first issues of two new newspapers, La Opinión and El Tiempo (which had applied for authorization to publish several years previously) appeared on 18 April and 3 May 2000 respectively. On 4 November 2000, the government delegate of Mongomo district ordered the confiscation of these newspapers. This measure was allegedly due to the fact that they had published one-sided information and photographs of former leaders of the country described as opponents of the regime. One of the newsagents was allegedly dismissed because he belonged to an opposition party. Not only were the newspapers confiscated but their readers were fined 20,000, 10,000 and 5,000 CFA francs (about US$ 28, 14 and 7 respectively).

39. The Special Representative was informed that newspapers that do not follow the Government's political line are also discriminated against in another manner: their reporters were not invited to attend activities or events organized by the authorities. In this connection, La Gaceta, in its issue No. 46, accused the Director-General for Information, Radio and Television of evicting Mr. Sopale, the editor-in-chief, from the TVGE radio building. A few days later, Mr. Antonio Ondó, the newspaper's photographer, was expelled from the ceremony inaugurating the new airport terminal and from the inauguration of a Mobil service station.

40. The Special Representative was informed that, in a decision dated 9 February 1999, the Ministry of the Interior ordered the suspension of Mr. Manuel Nse Nsogo as President of the Press Association of Equatorial Guinea (ASOPGE). This was allegedly done because Mr. Nsogo, who had been duly elected by members of the Association, was regarded as not possessing adequate professional qualifications for the job. The Special Representative would emphasize the need to elucidate this incident and to ensure that the recently appointed new president and management team are able to perform their functions in a completely independent manner without interference by the executive.

41. In 2000, Mr. Abid Hussain, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, transmitted to the Government a communication concerning seven complaints of violations of the right to freedom of expression. The Special Rapporteur also expressed a desire to make an official visit to Equatorial Guinea, but received no reply. It may be recalled that, during the Special Representative's first visit to the country in 1999, the authorities had stated their willingness to receive thematic special rapporteurs and that, in its resolution 2000/19, the Commission welcomed the stated willingness of the Government of Equatorial Guinea to extend invitations to those rapporteurs (para. 5). The Special Representative wishes once more to urge the authorities of Equatorial Guinea to give

serious thought to the possibility of inviting Mr. Hussain so that his recommendations can be used as a guide in identifying more suitable measures to strengthen freedom of the press and freedom of opinion and expression.

42. As indicated in the previous report, the country has no official gazette that regularly publishes laws, draft laws or administrative acts. The Special Representative has received no information indicating that the Government of Equatorial Guinea has created an official publication for this purpose. Nor has he received any information on whether the Government has already cashed a cheque given to UNDP in 1999 by the United States of America to be forwarded to the Government as a donation for the purchase of a printing press; the cheque had not been cashed in 1999 because of internal difficulties within the Government of Equatorial Guinea.

43. During his stay in Madrid, the Special Representative was informed that the Spanish Agency for International Cooperation (AECI) had decided to end its financial support for the publication of texts of laws through La Gaceta because the arrangement was not being implemented regularly and systematically.

E. Freedom of movement

44. Freedom of movement is still subject to serious restrictions. Large numbers of military roadblocks, the requirement for visas to leave the country and internal exile are still current practices, despite the Special Representative's recommendations in his previous report (para. 134) and those of the Commission in its resolution 2000/19 (para. 2 (a)).

45. As indicated in the previous report, military roadblocks not only violate the right recognized in article 12 of the International Covenant on Civil and Political Rights but also constitute a source of abuse by the soldiers assigned to them. According to a report published in 2000 by a Sub-Commission of the National Human Rights Commission (CNDH) of the Parliament (House of Representatives of the People) of Equatorial Guinea, visits to the country's detention centres in October 1999 revealed that "the specific powers and functions of roadblock details, detachments, gendarmeriás and police stations are being abused and their authority is in most cases being used to victimize and pillage the people" (p. 54). The visiting mission recounts that, while it was inside the Beayob building, "for reasons unknown and without any explanation", "the Commander in Chief of the post ordered the destruction of the roadblock next to the detachment, which meant that it was illegal. It had been put up in order to plunder people" (p. 27).

46. Specifically, this report states that, in the opinion of the local authorities of the Island of Bioko, "people are ill-treated at roadblocks that are put up for the purpose of ensuring law and order" (p. 43) and that at the one situated at kilometre 5 on the Malabo-Baney road "policemen oblige drivers of public transport vehicles to hand over unjustified sums of money, which does not amuse the passengers" (p. 46).

47. Notwithstanding the recommendations made throughout the past 21 years, the authorities announced that military roadblocks would be reinforced on 12 October, the anniversary of the country's independence. This measure was criticized by certain members of Parliament.

48. The Special Representative's attention was drawn to the case of Mr. Santiago Eneme Ovono (also known as Alandi), former Minister for Foreign Affairs, former Diplomatic Adviser to the President, former Ambassador to Cameroon, and the President's first cousin, who is said to have been relieved of his post as Ambassador to Cameroon in August 1998 and confined to his native village for 18 months. Mr. Eneme personally told the Special Representative that he attributed this punishment to the fact that, in 1998, he had refused to carry out an order to abduct certain citizens of Equatorial Guinea who had sought refuge in Cameroon. At a family reunion on 13 December 1999, the President had accused him and members of the army of organizing a conspiracy against him. For this reason, and since he knew for certain that plans had been made to assassinate him, Mr. Eneme Ovono fled to Gabon on 17 January 2000 and from there proceeded to Spain.

49. The Special Representative was informed that Mr. Guillermo Nguema Ela (former Minister of Planning and Development), after being detained for over two years in Black Beach prison, was placed under house arrest in his Malabo home. He was also refused permission to leave the country to attend the funeral of his son, who had died in Spain in April 2000.

F. Right to physical freedom and integrity of the person

50. In his previous report, the Special Rapporteur had recommended, in particular and as a matter of urgency, that the Government should take the necessary steps to ensure the immediate and full realization of the rights to physical liberty, integrity of the person and the human dignity of detainees, including the prohibition of arrests without a warrant (except when someone is caught in the act of committing an offence) and the beating, ill-treatment or torture of persons deprived of their liberty, and that violations of such prohibitions should be suitably punished (para. 134). The Commission on Human Rights, in its resolution 2000/19, emphasized this recommendation (para. 2 (a)). There is no indication that anything has been done along these lines. On the contrary, the flagrant violations that occurred in 2000 reveal the pervasive legal insecurity experienced by the inhabitants of Equatorial Guinea in this respect.

51. One of the most revealing incidents in this connection was the detention of Mr. Augusto-Mba Sa Oyana for a period of 60 days between 17 June and 18 August 2000 by the the authorities. Mr. Sa Oyana is a Spanish citizen, 42 years of age, who was born in Equatorial Guinea but who has been living in Spain since 1977. On 17 June he went to Equatorial Guinea for family reasons and was obliged by the authorities to alight from his plane which was making a stopover in Malabo. He was then taken to Black Beach prison where he was locked up in one of the cells which are used to detain persons incommunicado and which were described in the Special Representative's previous report and in those of his predecessors. Two days later, at 4 p.m. on 19 June, he was visited by a senior official of the State Security Service who accused him of involvement in a plot to carry out a coup d'état against the Government, gave him paper and pencil and told him to write out his confession. Since he refused to do so and denied the accusation, he was removed from his cell at 10 p.m. and taken to an open area near the presidential mansion where government officials questioned him about the alleged coup d'état and tortured him. For this purpose they hung him from a pole that they threaded under the ropes around his ankles and under his handcuffs so that he was facing the ground while they beat the soles of his feet. At about 3 a.m., after having protested throughout that he was innocent, Mr. Sa Oyana fainted and was taken back to his cell where he was kept

incommunicado for three months in appalling sanitary conditions and not fed regularly by the prison authorities. On 18 August, having discovered a hole in the ceiling of his cell, he managed to escape and reached the Spanish diplomatic compound in Malabo where he was given protection and enabled to leave the country for Madrid following difficult negotiations between the two Governments. He weighed 40 kilograms having lost more than one third of his normal weight which had been 65 kilograms before his imprisonment.

52. The authorities of Equatorial Guinea concealed the whereabouts of Mr. Augusto-Mba Sa Oyana for several days and then for some time denied that he had been detained. Mr. Sa Oyana's wife learnt of his detention 10 days after 17 June through a message that her husband managed to smuggle out of the prison. From then on, Mr. Sa Oyana's family bruited the incident around as best it could through the international media and asked the Spanish authorities to request the Government of Equatorial Guinea to throw light on what had happened and to release him. The authorities of Equatorial Guinea initially denied the facts. Some time later they admitted that he had indeed been detained but pointed out that they considered him to be a national of Equatorial Guinea and not of Spain and for that reason rejected Spain's diplomatic requests and did not even allow its officials to visit him in prison. This sort of conduct, accompanied by arbitrary detention, torture and inhuman conditions of detention, clearly constitutes a case of enforced disappearance.

53. In mid-August 2000, the senior official of the State Security Service who had detained Mr. Sa Oyana once again went to see him and told him that he would be released if he signed a cheque for 15 million CFA francs in addition to the 5 million in cash that were in the brief case he had left on the plane at the time of his detention. This money was supposedly to be used to hire a special plane that would take him out of the country. Mr. Sa Oyana made out the cheque as requested but the promise to release him was never fulfilled.

54. At no time during the 60 days during which Mr. Sa Oyana was deprived of his freedom was he brought before a judicial authority nor were formal proceedings initiated in respect of the accusations made against him during his extrajudicial questioning. On 4 August 2000, the Special Representative wrote to the authorities of Equatorial Guinea requesting further information about the circumstances of and reasons for his detention, as well as his whereabouts and his health. No reply was received to this request.

55. On 22 August 2000, after Mr. Sa Oyana's escape from Black Beach prison Mr. Jesús Miguel Ondó Miyone, one of his cousins, also of Spanish nationality, was detained in Malabo. In messages which he managed to send from the hospital where he had been taken due to the serious health problems from which he suffers, Mr. Ondó Miyone stated that the authorities of Equatorial Guinea had told him he would remain in prison until Mr. Sa Oyono, his cousin, returned to the country and gave himself up. At the time this report was being drafted Mr. Ondó Miyone was still being detained, incommunicado in one of the cells of the Black Beach prison in Malabo. Like his cousin, he has not been brought before any judicial authority nor have formal proceedings been instituted against him.

56. Five other persons were being held incommunicado in the cells of Black Beach prison at the time of Mr. Sa Oyana's imprisonment and their situation has not changed at the time of writing. Four of them are militants of the FDR party and were detained just before the municipal

elections: Gabriel Nvé Mañana y Obá (38 years of age), arrested on 18 April 2000; Marcelo Seme Nzé (42 years of age), arrested on 24 May; Rubén Sima (38 years of age) and Romualdo Angüé Nbons (40 years of age), both of whom were arrested on 29 May. They are accused of involvement in an alleged plot to organize a coup d'état. They have not been brought before any judicial authority nor have formal proceedings been instituted on the basis of the charges against them. They say that they were tortured. Two of them, namely, Gabriel Nvé and Marcelo Seme, have or had legs broken as a result of their torture. Romualdo Angüé is not only being held incommunicado but is kept handcuffed in his cell. Presumably this is a form of additional punishment for having promised the authorities to testify against his companions and then breaking his word.

57. On 2 June 2000, Mr. Nigel Rodley, the Special Rapporteur on Torture, wrote to the Government requesting information about these four detainees, in particular about the allegation that they had been ill-treated and tortured in such a way that the femur of one of them had been fractured. He has not received a reply.

58. The fifth additional detainee held incommunicado in the cells of Black Beach prison at the time of Mr. Augusto-Mba Sa Oyana's imprisonment there is an ordinary prisoner who was tried and sentenced to 30 years' imprisonment in August 2000 for murdering a French voluntary service worker in 1993. His name is Enrique Angüé (29 years of age) and he is also being held handcuffed and incommunicado in his cell. He stated that, in December 1999, before he was arrested, the authorities proposed to pay him to assassinate former Minister Santiago Eneme Ovono. While the price to be paid for this hit job was being negotiated, the former Minister learnt of what was brewing and managed to flee the country, as indicated above.

59. The Special Representative was informed that Mr. Francisco Macías Nguema, the son of former President Macías, was arrested on 29 August 2000 "by order of higher authority" and accused of conspiracy. Franscisco Macías, who was Director-General of Housing in the Ministry of Public Works, Housing and Town Planning, is said to have been kept handcuffed in a cell at Black Beach prison for two weeks. Government sources stated that he had been arrested for "failing to respect State institutions".

60. According to newspaper accounts, a few days after Francisco Macías' detention, Mr. Rubén Maye Nsué Mangue, the Minister of Justice and Worship, was arrested at his home and accused of involvement in the alleged conspiracy attributed to his cousin Francisco Macías. He was allegedly arrested in August 2000 and then released on 12 October, on the occasion of National Independence Day, but subsequently placed under house arrest during that month. It is said he was initially held incommunicado, guarded by members of the security forces, in order to prevent contacts with the outside world. The Minister himself denied this information in a telephone interview with a radio correspondent, and stated that he had been travelling in the United States. Yet several persons assured the Special Representative in Madrid that, during the last quarter of 2000, they had received telephone calls from persons very close to the Minister informing them about his detention and asked them to do something to obtain his release.

61. From time to time the authorities detain various members of the opposition for relatively short periods. On 3 April 2000, Mr. Aquilino Owono Bibang and Mr. Gabriel Ndong Owono were detained in Akurenam on the orders of the government delegate for refusing to pay customs

duty on personal effects that the sister of one of them was bringing from Gabon. They were once again detained on 16 April by the same government delegate and for the same reason, although this time they had to pay a fine of 200,000 CFA francs (some US$ 280) before being released. At the end of April, Mr. Antonio-Eusebio Edú Nguema, the District Secretary of CPDS in Nosk-Nsomo, was detained for several days in the district capital and ill-treated because he was a member of the opposition. Mr. Jaime Ndong Edú, Secretary of the CPDS District Association, was detained from February to May in Nsork-Esebekang without charges being brought. He was allegedly forced to renounce being an opposition militant. Mr. Antonio Eusebio, CPDS representative in Nsomo, was also allegedly detained by the government delegate for about 24 hours. Mr. Francisco Mba Obiang, CPDS representative in Akurenam, was allegedly detained in Bata. Moreover, it was said that Mr. Amancio-Gabriel Nsé Angüé, Secretary for Organization and Civil Society of the CPDS, was detained for several hours in Akurenam for receiving visits from CPDS friends and militants at his home.

62. The Special Representative would reiterate the concern he expressed in his statement to the Commission at its fifty-sixth session concerning the conditions experienced by the 41 prisoners of the Bubi ethnic group who in March 2000 were transferred from Malabo prison (on the island of Bioko) to Ebinayong (on the continent). Their transfer took place without notice and without any official reason being given by the prison authorities. As indicated in his letter dated 14 March to the Minister of Justice, this transfer is worrying because it is prejudicial to the prisoners, who are thereby being deprived of the care and support of their families. It should be noted that prisons in Equatorial Guinea do not regularly provide adequate food and medical care to prisoners, who are therefore dependent on their families in this respect. The Special Representative has already had occasion to point out to the authorities of Equatorial Guinea that, according to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, "A detained or imprisoned person shall have the right to be visited by ... members of his family" (Principle 19) and "If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence" (Principle 20).

63. The Special Representative regrets that he has been unable to obtain any information from the Government of Equatorial Guinea in response to the many requests made throughout the past year. Specifically, he has received no information about improvements in detention centres. The general context described by CNDH in the report referred to above on the "Survey of the human rights situation in the pre-trial detention centres of the police and gendarmeria and in public prisons in Equatorial Guinea" is extremely serious and calls for immediate action on the part of the authorities responsible.

64. In its conclusions, CNDH emphasizes "the deplorable state of abandonment, wretchedness and dilapidation of all penitentiary establishments, detention centres and other police and gendarmaria premises" (p. 52); "the state of abandon in which penitentiary establishments and detention centres are left by their respective responsible ministries"; and "the lack of attention, except in occasional cases, paid to the basic needs of prisoners, such as food, medical care and medicaments, working toilet facilities, drinking water, hygiene and the cleanliness of the premises, including toilets, cells and basic facilities" (p. 53). The report adds that "some female prisoners are sexually harassed and abused" (p. 55).

65. The wording used in this report to describe conditions in these detention centres is eloquent; it refers to the Mbini public prison as having cells of "miniscule" dimensions that "stink to high heaven" and adds that "there is a real risk of their collapsing", that "they are not fit for human occupation and there is no ventilation" and that the prison is "unfit for human beings". The same comments are applicable to most of the centres visited.

66. CNDH condemns the widespread practice of using prisoners for the personal benefit of judges or other authorities as well as holding men and women together in the same premises. Certain authorities make the astonishing statement that "in order to avoid holding men and women in the same premises" "these [women] spend the night in their own houses as a preventive measure" (p. 26) or that "as a precautionary measure, they spend the night with police officers until such time as they have completed their spell of duty" (p. 14).

67. In many other respects, the CNDH report coincides with the conclusions reached by the Special Representative and his predecessors concerning the shortcomings of the prison system. Specifically, the fact that "the persons actually responsible for the prisons are not members of the special prison service" (p. 54), but soldiers, highlights the need to draw up regulations for detention centres that are in conformity with the principles laid down by United Nations bodies. According to these principles, detention centres should be supervised by a professional civilian body.

68. The Special Representative was informed that members of the International Committee of the Red Cross visited Equatorial Guinea in the second quarter of 2000 in the context of a new form of cooperation established with the Government. Although no agreement has yet been signed between the two parties, the authorities authorized visits to all detention centres. The Special Representative hopes that the cooperation that has thus been initiated will be developed and strengthened by the conclusion of an official agreement that will include a more binding commitment on the part of country's prison authorities.

G. Right to due process (and independence of the judiciary)

69. In his first report (E/CN.4/2000/40) the Special Representative drew attention to the need to adopt legislative and administrative measures to ensure that the required separation between the executive branch and the judicial branch is achieved, to train judicial officers, to promote the prosecution of human rights violations and to restrict the jurisdiction of military courts, which should not have competence in respect of civilians (para. 137). These recommendations were explicitly welcomed by the Commission in its resolution 2000/19 (para. 2 (a) and (e)). These recommendations were, moreover, based on similar observations made on a number of occasions by previous Special Rapporteurs and the Independent Expert, as well as on a special study carried out by the United Nations in 1998 of the administration of justice in Equatorial Guinea (see E/CN.4/2000/40, para. 61).

70. No official information was received during 2000 indicating that any steps had been taken to improve the system of justice in Equatorial Guinea by strengthening the right to due process and ensuring the independence of the judiciary.

71. On the contrary, Mr. Augusto-Mba Sa Oyana's detention without a warrant for 60 days, described above, is an eloquent illustration of the difficulties encountered under Equatorial Guinea's judicial system. No judicial authority intervened in his case despite the fact that the maximum detention period of 72 hours laid down by law had been well exceeded. Nor did any judicial authority take action in respect of the other four prisoners, militants of the FDR party, who were imprisoned together with Mr. Sa Oyana and who have been detained without a warrant in the cells of Black Beach prison since the end of the first quarter of 2000. Judicial intervention was also lacking in the subsequent detention without a warrant, since August 2000, of Mr. Jesús Miguel Ondó Miyone, who is being kept incommunicado in similar conditions in Black Beach prison in retaliation for the flight of his cousin, Mr. Augusto-Mba Sa Oyana.

72. In such cases of political persecution, the administration of justice is not so much hampered as blatantly disregarded by the executive authorities, who feel that they are completely free to act without having to worry about any reaction or intervention on the part of the judiciary. There is no reaction or intervention either at the time the violation occurs or after it has ceased. Mr. Augusto-Mba Sa Oyana does not believe that there is even a remote possibility of applying to the courts of Equatorial Guinea for due compensation for the outrage he suffered. Even if national legislation provided for a procedure of this kind, which is doubtful, he would be unable to apply to the courts personally since he would obviously be deprived of his freedom once again, and he has good reason to fear that if he were to authorize a third party to represent him before the court the result would be persecution of his proxy by the Government. Yet these suppositions aside, Mr. Sa Oyana is convinced (and justifiably so) that no judge or magistrate in Equatorial Guinea would dare to institute proceedings or hand down a decision against the Government or against officials acting on its behalf for depriving him of his liberty without a warrant, keeping him incommunicado, torturing him, making him disappear temporarily, stripping him of his belongings and depriving him of the right to justice. This absence of protection and this defencelessness are concrete examples of the lack of independence of the judiciary in Equatorial Guinea.

73. The judiciary's lack of independence has also been recognized by CNDH. In its report on detention centres and military blockades, mentioned above, CNDH states that "judges and military commanders are at loggerheads. There is a great deal of political interference with the law" (p. 43), and "intimidation of the judiciary by the army is continuing" (p. 55). It adds that certain local authorities complain that they are "unfamiliar with the work of the judges in their area who are often absent from the town" (p. 38) and that "the constant and persistent absence of judges in the city makes it necessary to detain offenders for more than 72 hours on police premises" (p. 40). Perhaps this offers another explanation of the shortcomings of the administration of justice in the case of ordinary detentions as distinct from detentions "by order of higher authority".

74. The problem of impunity is also aggravated by the fact that sentences imposed by the courts on persons enjoying the protection of the authorities are not executed. On 2 November 2000, the Court of Appeal ordered the imprisonment of Mr. Francisco Mba Mendam, an army officer and former government delegate of Micomeseng district, who was sentenced in October 1999 to 30 years' imprisonment for having killed Mr. Julián Esono Abaga, the former Ambassador in Paris, in January 1999. The Special Representative informed the

United Nations Commission on Human Rights last year that, despite being sentenced and instead of being sent to Bata prison, Mr. Mba Mendam was living as a guest in the home of the Deputy Inspector-General (E/CN.4/2000/40, para. 65). CNDH, in its report already referred to and drawn up in October 1999, following its visits to detention centres, indicated that it had not met Mr. Mba Mendam in Bata prison and had been unable to obtain detailed information concerning his whereabouts.

75. The shortcomings of the judicial system could be exacerbated by the personal violence being encouraged by the State leadership. In his speech of August 2000, the President of the Republic reportedly urged the population of Bata to arm themselves with machetes against an alleged danger from outside on the part of certain countries who had an interest in destabilizing Equatorial Guinea. The creation of independent vigilante groups is a source of considerable concern since they might engage in forms of personal violence that would be regarded by the people as authorized or tolerated and would constitute a serious threat to the rule of law.

II. SITUATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A. General economic situation

76. For half a decade the country has been undergoing a phase of high economic growth, thanks to the discovery and exploitation of large oilfields. The current crude oil production is not known exactly, as no official information is available in that respect, and oil revenues are not shown in the State budget. However, according to the daily La Gaceta, the Minister who is Government spokesman recognized that production has already reached the figure of 200,000 barrels a day. At the beginning of the year 2000, it was estimated at slightly more than 100,000 barrels a day. When the oil boom began in the country, around 1995, the figure mentioned was 7,000 barrels a day. Experts in this field forecast that by the year 2001 production may rise to as much as 300,000 barrels a day. This rising trend, which had developed in such a short period, is indicative of the size of the resources discovered, which in addition are considered to be of very high quality. Exploration work has been divided between companies from Australia, Brazil, France, the Republic of Korea, Nigeria, South Africa and the United States.

77. Unfortunately, all this wealth does not help the living standards of the majority of the population. According to the UNDP's Human Development Report 2000, per capita gross domestic product (GDP) rose from US$ 944 in 1997 to US$ 1,049 in 1998, which still does not reflect the increase in oil production in the last two years. Despite the steady rise in GDP, and as pointed out in the previous report, Equatorial Guinea continues to be ranked 131st in the world's Human Development Index. According to the data, the gap between GDP and the Human Development Index has widened rising from 3 to 4 points, which indicates that the greater wealth has not been converted into effective human development.

78. Economic growth is not synonymous with human development, according to the opinion of the United Nations General Assembly, which, in its Declaration on the Right to Development, defines development as "a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals

on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom". What this means is that the mere improvement of economic indices is not enough to determine enhanced enjoyment of the right to development and of economic and social rights. Fundamental principles, such as non-discrimination, equality and social justice, must underlie any country's development. There is an urgent need for these principles to be applied in Equatorial Guinea to the oil boom currently occurring in the country.

B. Right to health

79. In his previous report, the Special Representative had warned about the high infant mortality rate (109 per 1,000 live births), the high mortality rate among children under 5 (172 per 1.000), inadequate budget allocations for the health sector, and widespread conditions of poor hygiene, which encourage diseases such as malaria and typhoid fever to flourish.

80. It was also indicated in the previous report that the authorities of Equatorial Guinea regarded the incidence of AIDS as still limited in the country, with only 3,000 persons seropositive and 40 suffering from the disease, of whom 7 were reported to have died. However, according to information published in the press, a recent report by the Joint United Nations Programme on HIV/AIDS (UNAIDS) states that 9.98 per cent of rapid tests carried out in 1999 yielded positive results, among 64 per cent of which more thorough analyses revealed the presence of HIV. According to a 1997 study, 3.48 per cent of the sexually active population was seropositive. This meant that in 1999 there were at least 10,000 seropositive persons in Equatorial Guinea. If these data are projected in the future, at the current rate of growth there will be more than 23,398 seropositive cases by 2005.

81. The Special Representative did not receive any information from the Government about improvements or developments in the country's health system, as the Equatorial Guinea authorities did not respond to his request for information.

C. Right to work

82. In his previous report, as his distinguished predecessor had done on a prior occasion, the Special Representative had drawn attention to the high rates of unemployment and underemployment in the country. He had also warned about existing restrictions affecting the right to work, which take the form of various means of preventing persons who are not faithful supporters of the government party from obtaining jobs. According to the report on human rights published in 2000 by the United States Department of State (sect. 6 (a)), the Agency for the Promotion of Employment in Equatorial Guinea (APEGESA) is in charge of screening the staff of oil companies for membership of the government party, and retains up to 60 per cent of employees' wages. The Special Representative did not receive any assurance from the Government regarding the elimination of such practices, as recommended by the Commission in resolution 2000/19 (para. 2 (h)), or regarding improvements or developments in the right to work, as the Equatorial Guinea authorities did not respond to his request for information on this matter.

83. In 2000, the Government of Equatorial Guinea did not ratify any of the labour conventions adopted by the International Labour Organization. In the past, Equatorial Guinea had the Food and Catering (Ships' Crews) Convention, 1946 (No. 68), Accommodation of Crews Convention (Revised), 1949 (No. 92), Maternity Protection Convention (Revised), 1952 (No. 103), Minimum Age Convention, 1973 (No. 138), the Equal Remuneration Convention, 1951 (No. 100), Hours of Work (Commerces and Offices) Convention, 1930 (No. 30), Weekly Rest (Industry) Convention, 1921 (No. 14) and Hours of Work (Industry) Convention, 1919 (No. 1). It has still not submitted any report on the status of their implementation.

D. Right to education

84. In his previous report, the Special Representative had expressed concern that only a small percentage of Equatorial Guinea's income was earmarked for education (1.8 per cent), which was reflected in an equally low proportion of State expenditure (5.6 per cent), late entry into the school system and high drop-out rates, more so among girls than among boys.

85. The Special Representative did not receive any information from the Government concerning improvements or developments in the country's educational system.

E. Status of women

86. According to the report published by the National Programme of Action to Combat AIDS, there are twice as many women infected by HIV as men.

87. In his previous report, the Special Representative had drawn attention to the considerable discrimination faced by women in Equatorial Guinea, as reflected in the fact that the gross national product produced by women is less than half that produced by men; the illiteracy rate among women is three times greater than among men; and the number of women reaching secondary school level is half that of men, among other factors.

88. Like his distinguished predecessors, the Special Representative had expressed particular concern for the country's practice of imprisoning women who are separated or divorced for not returning to their spouses the sum paid for them when they married, known as their dowry. This practice is blatantly contrary to article 11 of the International Covenant on Civil and Political Rights (to which Equatorial Guinea is a party), which prohibits imprisonment for debt. According to the aforementioned report prepared by the Subcommission of the National Human Rights Commission (CNDH), the district judge in Bidzabidzan had reported that the most frequent court cases he dealt with were those related to marriages and dowries (p. 27). The same report says that in Nkue prison, the only three prisoners were women sentenced for non-payment of dowry; in the Ebibeying public prison, out of a total of 12 prisoners, 5 had been incarcerated for non-payment of dowry; another woman in Evinayong had also been detained for the same reason. According to the CNDH report, the dowry issue is a source of concern even to the local authorities themselves. In Ebibeyin, Añisok, the authorities referred to the dowry as "a disturbing and serious problem which destroys family unity. This mechanism should be codified, defined and quantified, and in any case abolished" (pp. 31 and 36).

89. The Special Representative received no information from the Government of Equatorial Guinea about fulfilment of the express recommendation "to eliminate all forms of discrimination against women and to continue to promote their full enjoyment of human rights by taking measures such as the ending of the practice of imprisoning women for not returning their marriage dowry when they separate from their husbands, and by promoting women's right to education", as agreed by the Commission in resolution 2000/19 (para. 2 (f)).

III. MONITORING OF TECHNICAL ASSISTANCE TO EQUATORIAL GUINEA IN THE FIELD OF HUMAN RIGHTS

A. General situation

90. In resolution 2000/19, the Commission on Human Rights requested the Special Representative to verify, on behalf of the Commission, the technical assistance provided to Equatorial Guinea to support its national plan of action on human rights, based on the recommendations made since 1979 and reiterated in his report.

91. In this connection, the Special Representative sent a letter to international governmental and non-governmental organizations maintaining relations with the Government of Equatorial Guinea, requesting information about any measures taken to establish technical cooperation activities in the field of human rights. Replies were received from the UNDP office, the European Commission and the Fondation Internationale des Droits de l'Homme.

B. Technical assistance by the European Commission

92. According to information received, the European Commission signed a cooperation agreement with the Government of Equatorial Guinea, known as the National Indicative Programme (NIP), in the framework of the implementation of the fourth Lomé Convention. The Programme is funded to the extent of 12 million Euros (roughly US$ 11.3 million), of which 2.5 million (roughly US$ 2.3 million) will be earmarked for the promotion of human rights, the development of the rule of law and the promotion of civil society.

93. In the agreement, the European Commission set out a series of principles underlying its implementation. In particular, it mentions the need for the planned activities to be undertaken in line with efforts to develop democracy and respect for human rights. It also requests the authorities to demonstrate their willingness to undertake to establish the rule of law, in which the rights of citizens will be respected.

94. An identification mission was carried out in cooperation with the Inter-Parliamentary Union in September and October 2000, for the purpose of identifying priority actions. At the time this report was drafted, the results of the mission were still not available. According to the evaluation made during the identification mission, a financing proposal will be prepared including details concerning objectives, activities, means and a work plan. The programme, which could start in the second quarter of 2001, will focus its activities on the following aspects: (1) right to legality and reinforcement of representative democracy; (2) reform and improvement of the judicial sector; and (3) strengthening of civil society.

C. Technical assistance by the United Nations Development Programme

95. In August 2000, under an agreement with UNDP, the Government of Equatorial Guinea adopted a National Governability Programme, which had been under discussion for two years. As this report was being completed, its approval by Parliament was still awaited.

96. If the programme is adopted, that will represent a significant step, provided that it is followed by genuine implementation of the measures concerned. The Special Representative would hope that many of the recommendations made by the United Nations Commission on Human Rights over the past 21 years are reflected in the document. Nevertheless, the Special Representative regrets that the Plan's wording is at times too vague and does not specify commitments in such a way that their effective implementation, or the genuineness of the Government's commitment, can be verified.

97. A particular concern is that, with regard to oil revenues, the State's commitment goes no further than applying "greater transparency" in the management of resources, as opposed to complete transparency. Similarly, it is of concern that there is no intention to limit the use of decree laws, which should be considered an exception in the output of legislation and not regular practice.

98. Where freedom of movement is concerned, the Programme does not mention the need to remove existing military roadblocks. The paragraph relating to freedom of association, which does not recognize the need to eliminate existing restrictions, is not clearly worded.

D. Technical assistance by the Government of Spain

99. In October 1999, at the ninth meeting of the Spain-Equatorial Guinea Joint Commission, the Government of Spain signed an agreement for a cooperation programme with Equatorial Guinea for the 2000-2002 triennium.

100. The bilateral cooperation programme covers many sectors, including activities in the area of human rights. Under section A.3 on "Institutional strengthening", the Spanish agency cooperation "will provide technical assistance and training through specialized bodies and NGOs, in order to make the Centre for the Promotion of Human Rights fully operational", with support in the areas of dissemination and awareness-creation. In this line of cooperation, Spain intends to coordinate action with initiatives planned under European Union cooperation.

101. The agreement also includes specific support for the Codification Commission, which will be dealing with the codification and reform of legislation, and the reform of the prison system.

E. Technical assistance by the Fondation Internationale des Droits de l'Homme

102. In July 1999, the Fondation Internationale des Droits de l'Homme signed a protocol of cooperation on human rights with the Government of Equatorial Guinea for the general coordination of the programme of the Centre for the Promotion of Human Rights and

Democracy, authorized by presidential decree in March 1998. According to the terms agreed, the programme was to have been implemented within 18 months of signing the protocol. To date there is no indication that any of the planned activities have been carried out.

F. Technical assistance by the Office of the United Nations High Commissioner for Human Rights

103. The Office of the United Nations High Commissioner for Human Rights wrote to the Minister of Justice in 1999, informing him that it was prepared to draw up a programme of technical assistance. According to the Special Representative's first report, the Government was asked to ensure immediate implementation of recommendations that did not require technical assistance. The Special Representative has received no information indicating that any of the recommendations contained in resolution 2000/19 have been implemented.

104. When he addressed the fifty-sixth session of the Commission, the Minister of Justice stated that the President of Equatorial Guinea was prepared to take the initiative to appoint a high-level team from his Government to meet with the Office of the High Commissioner in order to negotiate point by point a comprehensive programme of technical assistance, pursuant to Commission resolution 1999/19 of the year before. However, the Special Representative has no knowledge of any attempt to arrange a meeting of that kind. After receiving a communication from the Minister of Justice, saying that the Government did not consider a visit by the Special Representative to be appropriate before the Government of Equatorial Guinea and the Office of the High Commissioner had drawn up the new programme of cooperation, the Office reiterated its willingness to arrange a programme of technical assistance in human rights and reminded the authorities of Equatorial Guinea that, according to the terms of the 1993 Vienna Declaration and Programme of Action, all technical assistance activity should abide by the principles of transparency and complementarity with monitoring services.

IV. CONCLUSIONS

105. The human rights situation in Equatorial Guinea continues to be grave, but could be improved if resolute action is taken by the international community in general and the United Nations Commission on Human Rights in particular.

106. The recommendations made by the Commission to the Government of Equatorial Guinea in resolution 2000/19 have not been implemented, nor has the Government cooperated in any way with the Commission's Special Representative to implement them, even going so far as to refuse him permission to visit the country in 2000, nor has the Special Representative received any replies to the various enquiries he sent the Government throughout the year. The Government has not replied either to the requests of the Commission's other rapporteurs, such as the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on torture, or to the requests of the Office of the United Nations High Commissioner for Human Rights.

107. The conclusions which the Special Representative had set out in his report to the Commission at the previous session remain entirely valid. For reasons of space they are not

reproduced in this document, but they should be understood as literally incorporated within it (E/CN.4/2000/40, paras. 113 to 132). The Special Representative invites the Commission to take this into account.

108. In brief, those conclusions found that in Equatorial Guinea any person can be deprived of liberty with no effective judicial remedy, and even subjected to torture, as a result of the profound distrust entertained by the Government towards any form of dissidence, which has prevented the political agreements concluded since 1993 between the governing party and opposition parties from ever being given effect. The exceptional economic boom which followed the discovery of major oilfields in the mid-1990s has not led to any improvement in the economic, social and cultural rights of the population, more than 65 per cent of which lives in conditions of extreme poverty, being denied the most elementary rights to education and health, which especially affect children. Legislation is not published regularly. Human rights organizations and trade unions are not authorized to function, nor is any independent, regular daily press allowed, apart from a few occasional publications which try to appear on a monthly basis. Society as a whole, which experiences problems of discrimination between the different ethnic groups that populate a territory spread over 28,000 square kilometres, is subjected to the constant presence of the armed forces, which restrict the right to freedom of movement by setting up roadblocks across the country and by exercising criminal jurisdiction over civilians. Women are subjected to discriminatory practices, which go to the extreme of imprisoning them for not returning their marriage dowry in the event of divorce or separation. All the above occurs in the midst of general impunity for human rights violations, based on the lack of independence of the judiciary vis-à-vis the executive power.

109. The situation experienced by Equatorial Guinea is not new. It has been reported to the Commission for the past 21 years, ever since the decision was taken to appoint a Special Rapporteur for the country in 1979. Basically speaking, the situation has not changed since then, despite the recommendations which the Commission has made year after year to the Government of Equatorial Guinea.

110. Although the Government of Equatorial Guinea did not allow the Special Representative to observe on the spot how the human rights situation had developed by visiting the country in the year 2000, he was able to ascertain that there had not been any signs of improvement in that respect. On the contrary, arbitrary detentions continued to occur throughout the year, "by order of higher authority", which means that imprisonment is decided by the executive power, subject to no control whatsoever by the judicial authorities. This is reliably illustrated in the case of the Spanish citizen of Equatorial Guinean origin, Augusto-Mba Sa Oyana, who was imprisoned for 60 days in the country's capital, Malabo, in Black Beach prison, situated within the presidential compound, where he was tortured, temporarily "disappeared" and stripped of his belongings, until he was able to escape and to find shelter with the Spanish diplomatic mission. During his imprisonment (similar to that experienced by other persons mentioned in the reports which the Special Rapporteurs and Independent Expert have submitted to the Commission over the past 21 years), Mr. Sa Oyana remained in solitary confinement inside a prison cell, like five other persons who had been previously detained and also subjected to torture and held incommunicado, which confirms that such practices are grave, systematic and persistent.

111. Concern is expressed that the victims of complaints for human rights violations increasingly include senior members of the governing group. The confinement to which a first cousin of the President of the Republic and former Minister for Foreign Affairs was subjected for 18 months and his subsequent escape from Equatorial Guinea on account of alleged plans for his assassination at the beginning of the year 2000; the detention without a court order of the Director-General of Housing of the Ministry of Public Works (the son of former President Macías) in August; and the alleged detention without a court order of the Minister of Justice (a cousin of the above) in August and October are events that cannot pass unnoticed. The difficulty of confirming each of these cases separately should not prevent one from appreciating that taken together (alongside other power struggles which have occurred between highly placed political figures in the past year, which have not been recounted in this report) they reveal the presence of serious splits in the party leadership, which could give rise to even greater human rights violations for the rest of the population. Already in his report a year earlier, the Special Representative had warned that "senior State officials, as well as United Nations officials, are not free of the risk of falling victim to these (human rights) violations" (E/CN.4/2000/40, para. 114). What has happened in the year 2000 has exceeded any forecast made to date.

112. In November 2000, the political opposition, gathered in Spain, handed the Special Representative a proposal inviting the Government to agree to arrangements which, with support by the international community, could ensure a transition to democracy, based on respect for human rights. This proposal deserves consideration, given that Equatorial Guinea, more than many other countries experiencing difficulties in the field of human rights, is in a better position to improve its situation in this respect, thanks to its small population (roughly 450,000 inhabitants), the extraordinary economic resources it has been receiving for the last five years as a result of the discovery of new oilfields, and the support that it can expect from the international community, which has been following developments in the country closely in the last two decades, and which would therefore be able to make a positive, qualified contribution to a real solution to existing problems.

113. It is important, therefore, to reiterate the conclusion (already expressed in the Special Representative's previous report) that the technical assistance which the international community may provide to Equatorial Guinea can be productive provided that it starts from the implementation, within a reasonable period, of the recommendations made repeatedly by the Commission which do not require technical assistance (such as the cessation of arbitrary arrests and torture, guaranteed freedom of opinion, the publication of legal texts, and the improvement of sanitary conditions in detention centres), which could be accomplished by a simple government order to that effect, and the adoption of control mechanisms to ensure that the order is fulfilled.

V. RECOMMENDATIONS

114. The Special Representative reiterates all the recommendations given in the relevant section of his previous report (paras. 133 to 146), which should be considered to be literally incorporated in this new report, and which have not been physically included only to save resources. None of these recommendations has been overtaken, since none has been applied by the Government of Equatorial Guinea, so that the members of the Commission are urged to consider them again in their full version or as summarized in its resolution 2000/19.

115. These recommendations are sufficiently well known, since they are the same as those the Commission has repeatedly made to the Government of Equatorial Guinea over the past 21 years, including some which can and should be immediately implemented, without the need for additional technical assistance, by measures such as an order putting an end to arbitrary arrest and torture, the authorization of freedom of expression and freedom of the press, the elimination of permits to leave the country and the removal of military roadblocks inside the country, the periodic publication of legislation, the ratification of the international instruments which Equatorial Guinea has not yet accepted (such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of all Forms of Racial Discrimination), and a decision to deal with impunity for human rights violations. The Special Representative recommends that the Commission urge the Government of Equatorial Guinea to implement these basic recommendations without further delay.

116. Other recommendations, which have also been made repeatedly and which are described in detail in the previous report, could be better implemented with suitable technical assistance, provided that the political will exists to put them effectively into practice. The Special Representative recommends that the Commission invite the Government to express this political will through the direct and early application of the recommendations that do not require technical assistance and the adoption of a timetable agreed with the international community, indicating the cooperation activities it needs in order to give effect to the remaining recommendations (through technical assistance). These remaining recommendations relate, inter alia, to the independence of the judiciary, the codification of laws, the elimination of discrimination against women, political pluralism and the satisfaction of basic food, adequate housing, health, education and employment needs, with special consideration for the rights of children.

117. The Special Representative recommends that all cooperation organizations which are either developing or considering developing agreements with Equatorial Guinea should be called upon to bring those agreements into line with the guidelines set out herein, and should coordinate their implementation with the Commission on Human Rights, through its Special Representative, and with the Office of the United Nations High Commissioner for Human Rights.

118. The Special Representative reiterates the recommendation that a special appeal should be made to multinational corporations working in Equatorial Guinea to combine their efforts with those of the Commission to give effect to the recommendations repeatedly made to the Government of Equatorial Guinea with respect to human rights, and to cooperate to that end with the Special Representative of the Commission and the Office of the United Nations High Commissioner for Human Rights.

119. In addition to the recommendations made in the past, the Special Representative recommends that the Government of Equatorial Guinea be particularly called upon to end the practice of enforced disappearance and, to that effect, to agree to organize a national register of detainees, strictly and accurately kept and open for easy consultation by anyone. It is also recommended that a real remedy of habeas corpus should be instituted, effectively and without delay, in order to enable individuals to protect themselves against arbitrary detention and acts of enforced disappearance.

120. The Special Representative further recommends that consideration be given to the invitation which the opposition of Equatorial Guinea in exile extended to the international community and to the Government of Equatorial Guinea to engage in a political dialogue outside the country, aimed at finding ways and means of establishing democracy and human rights, and also recommends that the Commission declare its willingness to assist with this process, within its mandate, if that is deemed useful by the parties.

121. In view of the fact that the Government of Equatorial Guinea did not cooperate with the mandate assigned to the Special Representative in the year 2000, it must be recommended that, in addition to duly expressing its concern in that regard, the Commission make a special appeal to the authorities of Equatorial Guinea to take a position in conformity with their international obligations, and that the Commission arrange for the necessary mechanisms to ensure that this is done.

122. To sum up, the Special Representative recommends that the Commission maintain and strengthen its decision to follow closely the human rights situation in Equatorial Guinea and that it should concentrate on the early implementation of the recommendations repeatedly made to the country. To this end, in addition to renewing the mandate of a Special Representative to monitor the human rights situation by preparing a report and to monitor any technical assistance which may be provided to the country, the Commission should adopt further measures such as to ensure the implementation of its Special Representative's mandate and the fulfilment by the Government of Equatorial Guinea of its international obligations and the commitments specifically undertaken by it before the Commission.

Annex I

LETTER DATED 3 JULY 2000 FROM THE SPECIAL REPRESENTATIVE TO THE MINISTER FOR FOREIGN AFFAIRS AND THE MINISTER OF JUSTICE AND WORSHIP

Sirs,

The Minister of Justice and Worship sent the Minister for Foreign Affairs an "information note" (ref.: 2000-780-090) on 9 June 2000 stating that he found it "inappropriate that a visit should take place before the Government of Equatorial Guinea and the Office of the United Nations High Commissioner for Human Rights [had] drawn up the new programme of cooperation and technical assistance for the national human rights plan referred to in the resolution of the Commission on Human Rights (...)". A copy of the information note was sent by the Minister of Justice to the Resident Representative of the United Nations Development Programme (UNDP) in Equatorial Guinea, who was kind enough to inform me of the situation. I should like to make the following observations in this regard:

1. On two occasions this year, I have sought your Government's leave to visit Equatorial Guinea and carry out the assignment entrusted to me, with your Government's consent, by the Commission of Human Rights in resolution 2000/19. On the first occasion, I proposed, in a letter dated 15 May 2000, a visit from 11 to 25 June. On the second occasion, as I had received no word from your Government, I proposed, in a letter dated 7 June 2000, the period from 6 to 20 August for the visit. This Special Representative has had no official reply from the Government of Equatorial Guinea to two proposals for a visit to the country in pursuance of his mandate.

2. The visit to Equatorial Guinea which Commission on Human Rights resolution 2000/19 requires the Special Representative to make is in no way contingent on the prior existence of a technical assistance agreement between the Government of Equatorial Guinea and any United Nations body such as the Office of the High Commissioner for Human Rights. The Commission decided, in paragraph 11 of the resolution, "to renew the mandate of the Special Representative for one year and [requested] him to monitor the situation of human rights in Equatorial Guinea and to report to the Commission at its fifty-seventh session (...)". I therefore submit, with due respect, that there is no reference in resolution 2000/19 to the condition mentioned by the Minister of Justice in the note referred to above.

3. As you know, the Commission on Human Rights entrusted its Special Representative for Equatorial Guinea with a dual mandate. In addition to requesting him, in paragraph 11 as quoted above, to monitor the human rights situation in the country, in paragraph 12 of the resolution, it requested him "to verify, on behalf of the Commission, that the technical assistance provided to Equatorial Guinea supports its national plan of action on human rights, based on the recommendations made since 1979 and reiterated in his report". Clearly, the Special Representative's visit to the country is not viewed as a prerequisite for the approval and

provision of technical assistance to Equatorial Guinea. But it is also clear that, the sooner the Special Representative's visit to Equatorial Guinea takes place, the more facts he will be able to gather in support of his mandate of supervising the technical assistance provided to the country. Moreover, smooth communications between the authorities of Equatorial Guinea and the Special Representative during his visit to the country could save time in drawing up a technical assistance programme based on the recommendations of the Commission on Human Rights. An arrangement whereby the Special Representative performed the tasks assigned to him and the Government simultaneously negotiated with the Office of the High Commissioner on technical assistance services would be the most appropriate way of ensuring the proper and prompt provision of those services. This is precisely what is meant by the seventh preambular paragraph of resolution 2000/19, which refers to the principle of "complementarity of technical assistance services with human rights monitoring services". Here again, we find nothing in resolution 2000/19 that corresponds to the idea of making the Special Representative's visit subject to prior agreement between the Government of Equatorial Guinea and the Office of the High Commissioner on a technical cooperation programme.

4. Resolution 2000/19 encourages "the Government to discuss and to agree on means for [the] early implementation [of a national human rights action plan], together with a comprehensive programme of technical assistance, with the Office of the High Commissioner for Human Rights" (para. 3). A national human rights action plan is a necessary but also an ambitious undertaking that needs time and very demanding conditions for its implementation. The national plan of action in the form in which it was contemplated at the Vienna World Conference on Human Rights in 1993 is an instrument of good governance: it is the product of a dialogue between the Government and civil society on the development and adoption of a national human rights policy. Certain minimum conditions must be met to facilitate this dialogue; hence the importance of having a general technical assistance plan that helps to bring about such conditions and pave the way for the national plan of action. If the aim is, in the words of the resolution, to ensure the early implementation of the national plan, the Government must also promptly consider and communicate to the Office of the High Commissioner the means that it is prepared to make available and those that it requires for the purpose. The Special Representative is not aware that any proposal for technical cooperation based on resolution 2000/19 has been submitted by the Government of Equatorial Guinea to the Office of the High Commissioner. Until such time as such a proposal is made, indicating the recommendations that the Government intends to implement without the need for technical assistance (eighth preambular paragraph) and those for which it requires technical assistance, it will be difficult to conclude a cooperation agreement between the Government of Equatorial Guinea and the Office of the High Commissioner. That being the case, the statement that the Government is unable to receive a visit from the Special Representative because a programme of technical assistance has not been drawn up is even more difficult to understand.

In the light of the foregoing, I respectfully request the Government of Equatorial Guinea, through your good offices, to reconsider the statement made in the note to which this letter refers, and give the Special Representative leave to visit the country so that he can fulfil his

mandate, in the belief that this will also lead to progress on the matter of technical assistance and the identification of activities and decisions conducive to the preparation of a human rights action plan. To that end, I reiterate my offer of a two-week visit, from 5 to 20 August 2000. May I kindly request the Government to reply to this third application for authorization for the visit, and to do so promptly so that the Special Representative can make arrangements for those mandate-related activities that depend on the Government's reply in good time for 5 August.

Accept, Sirs, the assurances of my highest consideration.

(Signed) Gustavo GALLÓN
Special Representative